November 7, 2023

The Honorable Ron Wyden
Chairman
Senate Committee on Finance
215 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
Senate Committee on Finance
215 Dirksen Senate Office Building
Washington, DC 20510

Re: MGMA Statement for the Record – Senate Committee on Finance's November 8th Open Executive Session to Consider the Better Mental Health Care, Lower-Cost Drugs, and Extenders Act

Dear Chairman Wyden and Ranking Member Crapo:

On behalf of our member medical group practices, the Medical Group Management Association (MGMA) would like to thank the Committee for the opportunity to provide feedback on the *Better Mental Health Care, Lower-Cost Drugs, and Extenders Act* that begins to address critical Medicare policies. We appreciate your leadership as this markup is especially vital due to the Centers for Medicare & Medicaid Services (CMS) recently finalizing its 2024 Medicare Physician Fee Schedule (PFS) final rule, implementing a 3.4% cut to the conversion factor.

With a membership of more than 60,000 medical practice administrators, executives, and leaders, MGMA represents more than 15,000 group medical practices ranging from small private medical practices to large national health systems representing more than 350,000 physicians. MGMA's diverse membership uniquely situates us to offer the following policy recommendations.

The *Medicare Access and CHIP Reauthorization Act of 2015* (MACRA) was enacted to repeal the flawed Sustainable Growth Rate (SGR) formula, stabilize payment rates to physicians in Medicare fee-for-service, and incentivize physicians transition to value-based care models. While well-intentioned, MACRA's methodology for updating the Medicare PFS does not keep pace with rising practice costs and inflation, while at the same time cutting reimbursement for physicians. MGMA offers the following recommendations to avoid further Medicare physician payment cuts in 2024 and to sustainably support medical groups providing high-quality care.

Key Recommendations

- **Pass legislation to avert CMS' 3.4% cut to the Medicare conversion factor for 2024.** We strongly urge the Committee to prevent the full 3.4% cut to the Medicare conversion factor given its centrality to physician payment and the widespread impacts that would follow a cut of this magnitude. While we appreciate the Committee acknowledging the issue of continued cuts by including a 1.25% increase to the Medicare PFS in the bill, not addressing the full cut would only compound previous reimbursement cuts and result in numerous negative consequences that would ripple across the healthcare sector.

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- **Provide an annual inflation-based physician payment update tied to the Medicare Economic Index (MEI) to ensure medical groups have a functioning reimbursement system moving forward that keeps pace with costs.** CMS' recently finalized conversion factor cut only illuminates the pressing need for a rational long-term payment system that does not result in yearly reductions**.** Without providing a commonsense annual inflation update for physicians — similar to other payment systems under Medicare — medical groups will continue to face financial barriers to remaining open and providing vital access to care for patients in their communities.
- **Reform the budget neutrality aspect of the Medicare Part B payment system to avoid future triggering events that cause across-the-board payment cuts harming medical groups' financial viability.**
- **Extend the advanced alternative payment model (APM) incentive payment at its previous level of 5%.** We urge the Committee to reinstate the APM incentive payment at 5% to properly incentivize and bolster practices transitioning to value-based care (VBC) arrangements.

Avert CMS' Impending Physician Payment Cut

CMS finalized a cut of 3.4% to the conversion factor for 2024 in the recently released Medicare PFS. This cut is utterly untenable as the cost of running a medical practice continues to rise, while Medicare physician payment effectively decreased by 26% from 2001 to 2023 when adjusted for inflation.[1] Eighty-nine percent of MGMA members reported operating costs increased in 2023, and CMS expects a 4.6% increase in practice cost inflation for 2024 under the MEI.[2]

MGMA conducted a survey of 517 medical group practices, ranging from small practices to large 2,500 physician health systems, assessing the impact of potential Medicare payment cuts, and evaluating how physician practices would respond.[3] Practices would consider limiting the number of new Medicare patients, reducing charity care, reducing number of clinical staff, and closing satellite locations. Ninety-two percent of medical groups responded that Medicare reimbursement in 2022 did not adequately cover the cost of care provided.

In our 2023 Annual Regulatory Burden Report, MGMA surveyed over 350 medical groups and 87% of respondents reported that reimbursement not keeping up with inflation impacts current and future Medicare patient access. This aligns with what the Medicare Trustees recently said in their 2023 report:

"While the physician payment system put in place by MACRA avoided the significant short-range physician payment issues resulting from the SGR system approach, it nevertheless raises important long-range concerns that will almost certainly need to be addressed by future legislation. In particular, additional payments totaling $500 million per year and annual bonuses are scheduled to expire in 2025 and 2026, respectively, resulting in a payment reduction for most physicians. In addition, the law specifies the physician payment updates for all years in the future, and these updates do not vary based on underlying economic conditions, nor are they expected to keep pace with the average rate of physician

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[1] American Medical Association, Medicare updates compared to inflation (2001 – 2023), https://www.ama-assn.org/system/files/ama-medicare-gaps-chart-grassroots-insert.pdf.
[2] MGMA *Stat Poll*, July 12, 2023, https://www.mgma.com/mgma-stat/higher-costs-persist-for-medical-groups-even-as-inflations-growth-slows.
[3] MGMA, Impact of Payment Reductions to Medicare Rates in 2023, https://www.mgma.com/getmedia/b0716bbf-d21f-4ead-b1cb-9371485e62ff/09-21-2022-Impact-of-Payment-Reductions-to-Medicare-Rates-in-2023-Full-Report.pdf.aspx.

cost increases. The specified rate updates could be an issue in years when levels of inflation are high and would be problematic when the cumulative gap between the price updates and physician costs becomes large. Absent a change in the delivery system or level of update by subsequent legislation, the Trustees expect access to Medicare-participating physicians to become a significant issue in the long term."[4]

Congress stepped in at the end of 2022 to mitigate 2.5% of last year's scheduled Medicare cuts, as well as including language to increase the PFS by 1.25% in 2024. The bill in front of the Committee would add another 1.25% to the PFS. We strongly urge the Committee to pass legislation to prevent the full 3.4% cut. Medical practices are already feeling the consequences of 2023's reimbursement cuts that went into effect, even after congressional intervention last year. The confluence of factors discussed above coalesce to threaten the financial viability of medical practices. Further reducing physician payment will only hasten negative repercussions to this nation's healthcare system.

Even hospitals that will receive a 3.1% increase in the Medicare hospital outpatient prospective payment system (OPPS) for 2024 have decried the insufficient nature of their positive increase given financial constraints and thin margins in the current environment. How does the Committee expect physicians to keep their doors open in same environment if Congress fails to avert an actual cut?

Pass an Annual Inflationary Payment Update and Address Budget Neutrality

Current payment cuts facing medical groups are simply unsustainable. While the most immediate concern is averting the upcoming cuts to physician payment, a permanent solution is vital to stabilizing Medicare and stopping these yearly decreases from happening. The *Strengthening Medicare for Patients and Providers Act*, which was introduced by a bipartisan group of congressional doctors, would provide an annual Medicare physician payment update tied to inflation, as measured by the MEI. This commonsense policy is long overdue to bring physician payment in line with the costs of providing care.

Compounding the lack of an inflation-based update are the annual reimbursement cuts medical groups face stemming from 2021 Medicare PFS changes, the phase-in of the E&M complexity add-on code (G2211) that CMS is implementing in 2024, and corresponding budget neutrality requirements. The House Committee on Energy & Commerce Subcommittee on Health reviewed a discussion draft of the *Provider Reimbursement Stability Act of 2023* in a legislative hearing a few weeks ago. Many of the provisions in this bill would make significant changes to alleviate the adverse effects practices experience due to budget neutrality in the PFS, such as increasing the triggering threshold from $20 million and instituting new utilization review requirements to better reflect the reality of providers using certain services compared to CMS' estimates.

We urge the Committee to work with its congressional colleagues to finalize legislation that would relieve these unwarranted pressures on medical groups. The lack of an annual inflationary update paired with budget neutrality requirements work in tandem to undermine the financial viability of medical practices, addressing both problems would go a long way towards establishing an appropriate reimbursement system.

Extension of APM Incentive Payment

The legislation in front of the Committee would extend the APM incentive payment at 1.75% for 2024. Currently, the APM incentive payment is 3.5% for 2023 and was previously 5% before this year. CMS

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[4]Medicare Board of Trustees, 2023 Annual Report of the Board of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, Mar. 31, 2023, https://www.cms.gov/oact/tr/2023.

finalized its policy to end the APM incentive payment and transition to a lower "qualifying APM conversion factor" adjustment in the 2024 Medicare PFS. MGMA appreciates the Committee recognizing the importance of the incentive payment but strongly recommends the full reinstatement of the 5% APM incentive payment. This payment is necessary to cover costs, support investments, and safeguard the financial viability of medical groups in the program.

The draft bill would also freeze the qualifying APM participant (QP) threshold at its current level for the 2024 performance period. This is a welcomed provision, and we thank the Committee for including it. Without the passage of this legislation, the QP thresholds will increase to a level making it impossible for many practices to join or continue participating in APMs. We suggest the Committee examine giving CMS the ability to adjust these thresholds under statute to allow them to be set at reasonable levels — the *Value in Health Care Act of 2023* includes language to this effect and would institute additional policies to better facilitate the voluntary transition of practices into value-based care arrangements.

Conclusion

MGMA thanks the Committee for its leadership in marking up this bill that impacts many Medicare programs. We want to underscore the pressing need to stop the full 3.4% cut to physician payment given its importance to the operations of medical groups. We look forward to collaborating with the Committee and its colleagues to craft commonsense policies that will reinforce practices' ability to offer high-quality care. If you have any questions, please contact James Haynes, Associate Director of Government Affairs, at jhaynes@mgma.org or 202-293-3450.

Sincerely,

/s/

Anders Gilberg
Senior Vice President, Government Affairs