

Congress of the United States
Washington, DC 20515

June 7, 2011

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Donald Berwick, MD
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW, Room 314 G
Washington, DC 20201

Dear Secretary Sebelius and Administrator Berwick:

We are writing to express our concern about the Centers for Medicare and Medicaid Services' (CMS) interim values for physician work for obstetric services, as published in the final 2011 Medicare physician fee schedule. CMS rejected the recommendations of the American Medical Association/Specialty Society Resource Based Relative Value Scale Update Committee (RUC), for reasons which are very unclear to us. We strongly urge you to accept the values that were developed and approved by the RUC as the appropriate, final values.

The Medicare values for obstetric services were not based on meaningfully collected data, or on the consensus recommendations of organized medicine that the RUC represents; so in 2009, CMS appropriately asked the RUC to conduct surveys and recommend updated values for the codes. The rigorous RUC evaluation process has been used to establish relative values for physician work under the Resource-Based Relative Value Scale (RBRVS) since 1992.

Because global obstetric care includes the 10 months of care, from the first antepartum visit through the final post-delivery office visit, the RUC used the equivalent value of each of those visits, plus the physician work during labor and during the delivery, to determine the correct values for the services. After the American Academy of Family Physicians (AAFP) and the American Congress of Obstetricians and Gynecologists (ACOG) conducted the survey of practicing physicians required as part of this process, the RUC provided CMS with updated obstetric values based on meaningful current data.

CMS, however, decided to multiply those values by 0.8922, reducing the value of care provided to pregnant women relative to the value of care provided to other patients by 11%. In the 2011 final rule, CMS asserted that there was no evidence that the work in maternity care has changed, but failed to recognize why it asked the RUC to review these codes: that the previous values weren't based on meaningful data, and there was no reasonable explanation for those values. CMS originally acknowledged that there was no justification for the previous work values, and subsequently decided the previous values were correct, even with evidence to the contrary. CMS' 11% reduction is not based on transparent expert review of the RUC recommendations or alternative survey or data.

Historically, CMS has accepted over 90% of the RUC's recommendations. We understand that CMS has intensified its scrutiny of the work valuations of codes. CMS' decisions must be made using a transparent consistent process, and must be based on credible data. None of these criteria have been met in this case.

With Medicaid paying for 42% of all births in the US, undervaluing obstetric care is unfair to the providers of these services, and could reduce access for Medicaid patients.

We strongly urge you to reject the 2011 fee schedule interim values of obstetric services, and instead use the values that were developed and approved by the RUC. Thank you for your consideration on this important matter. Should you have any questions on this matter please feel free to contact us or J.P. Paluskiewicz with Representative Burgess at 202-225-7772.

Sincerely,



Michael C. Burgess M.D.
Member of Congress



Phil Gingrey M.D.
Member of Congress



Phil Roe M.D.
Member of Congress