

**BOARD OF GOVERNORS**

**PRESIDENT**

Robert C. DeLuca, DO, FACOFP *dist.*  
Eastland, TX

**PRESIDENT-ELECT**

Nicole H. Bixler, DO, MBA, FACOFP  
Spring Hill, FL

**VICE PRESIDENT**

David J. Park, DO, FACOFP  
Ivins, UT

**SECRETARY/TREASURER**

Bruce R. Williams, DO, FACOFP  
Blue Springs, MO

**IMMEDIATE PAST PRESIDENT**

Duane G. Koehler, DO, FACOFP *dist.*  
Miami, OK

**PAST PRESIDENT**

Rodney M. Wiseman, DO, FACOFP *dist.*  
Pearland, TX

**GOVERNORS**

Greg D. Cohen, DO, FACOFP *dist.*  
Chariton, IA

David A. Connett, DO, FACOFP *dist.*  
Anaheim Hills, CA

Gautam J. Desai, DO, FACOFP  
Kansas City, MO

Brian A. Kessler, DO, FACOFP  
Harrogate, TN

Saroj Misra, DO, FACOFP  
Warren, MI

Ronna D. New, DO, FACOFP  
Abingdon, VA

**RESIDENT GOVERNOR**

Ryan M. Smith, DO  
Warren, MI

**STUDENT GOVERNOR**

Athena Chatzigiannidis, OMS III  
Jenks, OK

**SPEAKER, CONGRESS OF DELEGATES**

Elizabeth A. Palmarozzi, DO, FACOFP  
Auburn, AL

**EXECUTIVE DIRECTOR**

Bob Moore, MA, CAE  
Arlington Heights, IL

September 27, 2019

**VIA ELECTRONIC SUBMISSION**

Seema Verma, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS- 1717-P  
P.O. Box 8016  
Washington, D.C. 21244-8016

Dear Administrator Verma:

On behalf of the American College of Osteopathic Family Physicians (ACOFP), we appreciate the opportunity to comment on the Centers for Medicare & Medicaid Services (CMS) *Calendar Year (CY) 2020 Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center Payment System and Quality Reporting Programs* proposed rule.

ACOFP is the professional organization representing more than 20,000 practicing osteopathic family physicians, residents, and students throughout the United States who are deeply committed to advancing our nation's health care system by improving health care delivery and outcomes and ensuring that patients receive high-quality care.

As an organization with many osteopathic family physicians in solo, small and rural practices, we appreciate efforts to reduce physician administrative burden, and policies that recognize primary care services. While we have some concerns with elements of the proposed rule, we are hopeful that CMS will continue to keep in mind osteopathic family physicians and ensure that our members have the flexibility and opportunity to continue to deliver high quality and efficient care.

Our full comments are detailed on the following pages. Thank you for the opportunity to share our feedback with you. Should you need any additional information or if you have any questions, please feel free to contact ACOFP at [advocacy@acofp.org](mailto:advocacy@acofp.org) or (847) 952-5100.

Sincerely,



Robert C. DeLuca, DO, FACOFP *dist.*  
ACOFP President

## **Considerations for Controlling Increasing Hospital Outpatient Department Services**

ACOFP appreciates the intent of Section 603 of the Bipartisan Budget Act of 2015 (BBA), which is to curb the creation of off-campus provider-based departments through the acquisition of physician practices. We believe this provision will help guard against hospital integration of physician practices that is driven primarily by financial motives and ensure a level playing field between physician offices and off-campus provider-based departments. However, we are concerned that CMS' CY 2019 OPDS Final Rule, which implemented a two-year payment reduction for evaluation and management (E/M) services provided at "grandfathered" hospital outpatient department (HOPD), goes beyond the statutory requirements of Section 603 of the BBA. The CY 2020 OPDS proposed rule would implement the second-year reimbursement reductions. We are concerned about the impact of CMS' proposal on access to hospital services and health care services in general.

While we do not support hospital efforts to establish off-campus provider-based departments as a revenue-generating tactic, we believe that these facilities have the potential to serve a legitimate purpose to increase access to health care for patients in rural and underserved areas. Specifically, rural and health professional shortage areas can benefit from off-campus provider-based departments when there may not be any other stable or consistent access to health care services. We strongly urge the Agency to monitor for any potential access issues in rural and underserved areas. If, as we expect, the provision of E/M services decreases in such locations, there must be a counter-balance, either supporting solo, small, and rural physicians to take on additional E/M volume or establishing a mechanism to support legitimately needed E/M services – regardless of who or how those services are being provided.

ACOFP believes that if the Agency's intent is to protect physician practices by controlling unwarranted increases in HOPDs, then the Agency must address the burdens and barriers placed on these physicians. The Quality Payment Program and corresponding requirements under the Merit-based Incentive Payment System (MIPS), especially the increasing technology requirements, and efforts to redesign care have placed an enormous burden on physicians. When confronting these challenges, many family physicians face difficult decisions of whether to continue to provide care for Medicare beneficiaries or to remain in practice as solo or small group physicians. Often, the financial pressures and regulatory burdens leave physicians with no choice but to merge with or join a hospital entity.

As of the writing of this letter, CMS' reductions have been vacated by the Federal D.C. District Court, and it is unclear whether the Agency will appeal the ruling or take other action to continue with the reductions. Whatever path CMS chooses, ACOFP requests that CMS prioritize rural physicians and ensure they have the resources to treat their patients.