AMERICAN SOCIETY OF PLASTIC SURGEONS®
THE PLASTIC SURGERY FOUNDATION™

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March 13, 2015

The Honorable John Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
House Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Harry Reid
Senate Minority Leader
United States Senate
Washington, DC 20510

The Honorable Steven Scalise
Majority Whip
U.S. House of Representatives
Washington, DC 20515

The Honorable Steny Hoyer
Minority Whip
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Majority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Congressional Leaders:

As you well know, the sustainable growth rate (SGR) has been a persistent, intractable problem for more than a decade. Addressing it year-after-year, patch-after-patch has been expensive. It has cost money, time, energy, and the opportunity to pursue policy that improves the care Medicare beneficiaries receive. Simply put, the SGR is, has long been, and will continue to be a staggering burden.

For these reasons, it is not surprising that the SGR replacement policy advanced in the 113th Congress – the *SGR Repeal and Medicare Provider Payment Modernization Act of 2014*, H.R.4015/S.2000 (MPPMA) – received extensive support within Congress and organized medicine. Still, the simple fact that it received support does not mean it should not be significantly reworked. In that vein, the American Society of Plastic Surgeons (ASPS) is writing you now to state that **we do not support MPPMA and ask that it not be advanced as the final legislative solution to the SGR.**

Additionally, reports surfaced today that SGR repeal would be partially offset by cuts to provider payments. ASPS opposes cuts to providers to offset the cost of an SGR replacement system. We do not believe that cannibalizing the already insufficient provider payment pool is an effective first step when trying to develop a new, sustainable payment system.

The American Society of Plastic Surgeons (ASPS) is the largest organization of board-certified plastic surgeons in the world, and represents the broad spectrum of the specialty of plastic surgery, including reconstructive surgery. Plastic surgeons perform a variety of Medicare services, including, breast reconstruction, skin lesions, wounds, hand surgeries, trauma, eyelid surgery, cancer reconstruction and burns. ASPS has long supported repeal and replacement of the SGR and opposes continued short-term patches. Our highest priority, though, is that the SGR be replaced with a system that is effective and fair to all specialties. It is not enough to simply replace the flawed system with a new system. We need a new system that works for all providers.

We do not believe the structures created by MPPMA will achieve this end. The following represent our most serious concerns with the bill and what ASPS considers a good starting point in any effort to improve it.

1) INSUFFICIENT STATUTORY UPDATES – In the last 13 years, updates to physician payments have only twice been higher than the Medicare Economic Index, a measure of physician practice cost expense. Those two years – 2011 and 2010 – were the lowest and fourth lowest rates of medical cost inflation seen in the 23 years since physician payments were first linked to MEI. In 2010, the payment update was only 0.1 percent higher than the increase in the MEI.

   The MPPMA's fee updates – 0.5% annual updates through 2018, followed by 0% updates through 2023 – will almost certainly not cover the cost of medical price inflation. In fact, only one year in the last 23, 2011, saw the MEI increase by less than 0.5%. This means that payment increases, although stable, will not be enough to keep physician practices above water. In combination, reductions in provider payments to pay for the system, penalties for "low scoring" participants in the new the Merit-Based Incentive Payment System (MIPS), and low annual updates will make many practices unviable.

2) FLAWED QUALITY AND PERFORMANCE IMPROVEMENT PROGRAM – MIPS as proposed in the MPMMA is severely lacking. The following are some of its shortcomings:

   - The legislative language is overly broad and suffers from a lack of clarity on the intended structure and impact of key components. Notably, there is little detail on what weighting and methodologies will be used to calculate the system's composite scores. These scores will determine who is penalized and who is rewarded under the system, and as such they should be explicitly legislated. A similar lack of clarity in the statutory creation of the very programs that MIPS will replace led to numerous misconstructions and problems in their implementation.

To avoid repeating this mistake, Congress should be clear about what it wants and how it intends to get there.

- Despite trying to combine and streamline current reporting mandates, MIPS seems to actually increase the regulatory burden that physicians now face by holding them accountable to existing program requirements and adding clinical practice improvement activities. Physicians should be given the opportunity to demonstrate engagement in innovative clinical practice improvement activities as a surrogate for satisfying existing program requirements, not *in addition to* satisfying these requirements.

- At its onset MIPS will rely heavily on existing quality measures. It's widely known that many specialty providers struggle to find measures that are relevant to their practice. While the mechanisms proposed to allow for the introduction of new quality measures through specialty society qualified clinical data registries (QCDRs) are a good start, the proposal as structured in MPPMA places small specialties at a disadvantage, as many of these still may not have the resources to develop and maintain a registry.

- Lastly, and most importantly, ASPS believes that MIPS is fundamentally unstable.

  Its approach of basing the distribution of penalties and payments on an arbitrary mid-point will penalize some providers who are producing objectively good care. Additionally, the penalties in place from 2021 are so severe that they will, in combination with statutory updates that fail to meet practice cost increases, result in the lowest performers leaving the system.

  When the lowest performers leave the system, the mean/median quality level will represent more efficient and higher quality care than in the previous year. The likely effect of this is (1) an increase in the number of providers who give objectively high-quality care yet still fall within the penalized range of composite scores; (2) an increase in the actual quality of care provided by the "lowest" performing, most severely penalized and thus least viable participants; and (3) when they are forced out of the system, an increase in the overall quality level considered "average" in the subsequent year.

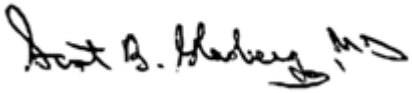
  Under this scenario, target scores become harder and harder to meet, ever-higher quality performers are forced out, and the problem is compounded. This is a negative feedback loop, it is a form of adverse selection, and it will put a viable fee-for-service option into a death spiral.

3) INAPPORPRIATE USE OF UTILIZATION AND PAYMENT DATA – Utilization and payment data, when presented in a vacuum, are not indicative of the quality or efficiency of health care

professionals. Including utilization and payment data on the Physician Compare website will be misleading, and could cause consumers to reach inaccurate conclusions about physicians.

ASPS greatly appreciates your efforts to look seriously at problems related to the Medicare physician payment system, and to work to sustain access for Medicare beneficiaries to the physician of their choice. We hope that leaders in Congress and of the committees of jurisdiction take time to perfect SGR replacement policy before advancing it, and we look forward to assisting in that effort. If you need more information or any assistance, please contact Patrick Hermes, Senior Manager of Advocacy and Government Relations, at 847-228-3331 or phermes@plasticsurgery.org.

Sincerely,



Scot B. Glasberg, MD
President, American Society of Plastic Surgeons