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Congress of the United States
House of Representatives
Washington, DC 20515

September 9, 2026

The Honorable Mehmet Oz
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Oz:

I write to express my strong opposition to the proposed 50 percent reduction in payment for evaluation and management (E/M) services reported with modifier -25 when a procedure is performed on the same date of service and urge the Centers for Medicare & Medicaid Services (CMS) to withdraw this proposal from the CY 2027 Physician Fee Schedule.

The proposed modifier -25 payment reduction raises significant concerns regarding access to care, physician participation, healthcare costs, and the delivery of timely and comprehensive medical services. These concerns are particularly acute in Puerto Rico, where Medicare beneficiaries and healthcare providers already confront unique and longstanding challenges.

As CMS considers this proposal, it is important to recognize that modifier -25 is not intended to permit duplicative billing. It applies when an E/M service is significant and separately identifiable from a procedure performed on the same date. The cognitive and clinical work associated with an E/M service -including obtaining a relevant history, performing an examination, making clinical judgements, establishing diagnoses, and developing or modifying a treatment plan- is not necessarily eliminated merely because a procedure is performed during the same encounter.

This distinction is particularly important in specialty care. A physician may evaluate a patient for one medical condition while, during the same encounter, identifying another condition requiring a procedure. In dermatology, for example, a patient being evaluated and treated for a chronic inflammatory condition may also present with, or be found to have, a suspicious lesion requiring a biopsy. The performance of the biopsy does not eliminate the physician’s separately identifiable cognitive work associated with evaluating and managing the patient's other condition. The proposed 50 percent reduction could therefore create pressure to separate medically necessary services into different appointments, simply to avoid inadequate reimbursement.

For patients, particularly elderly beneficiaries and individuals with limited mobility, transportation difficulties, or significant geographic barriers, requiring an additional appointment can create substantial burdens. It can result in additional transportation expenses, additional copayments, increased administrative costs, delays in diagnosis and treatment, and unnecessary inconvenience. More importantly, separating services that can appropriately and safely be provided during one encounter could fragment care rather than improve efficiency.

Puerto Rico already faces substantial healthcare workforce and access challenges, including difficulty recruiting and retaining physicians and maintaining adequate access to specialty care in rural and underserved communities. With more than 700,000 Medicare beneficiaries in Puerto Rico, maintaining a strong physician workforce is critical to ensuring continued access to care. Policies that further increase financial pressure on physician practices may exacerbate these challenges and could contribute to physicians limiting their Medicare participation, reducing the number of beneficiaries they serve, or relocating their practices to other jurisdictions.

The proposal is also particularly concerning with respect to services involving the diagnosis of potentially serious diseases. In dermatology, same-day biopsies of suspicious skin lesions can be critical to the timely diagnosis of melanoma and other skin cancers. Delaying a medically indicated procedure merely to permit adequate reimbursement for a separately identifiable E/M service can result in delayed pathology, treatment planning, and definitive care.

The analogy to the multiple procedure payment reduction ("MPPR") methodology also warrants careful reconsideration. Multiple procedures may share certain operative preparation, resources, and efficiencies. By contrast, the cognitive work required to perform a separately identifiable E/M service during an office visit does not necessarily diminish simply because a procedure is performed during that same encounter. The existence of limited overlap in administrative or support-staff functions does not establish that 50 percent of the physician's E/M service has become duplicative.

If CMS nevertheless determines that some form of payment adjustment should be pursued, I strongly encourage the agency to consider safeguards that would prevent the policy from adversely affecting medically necessary and separately identifiable services. At a minimum, CMS should consider exempting encounters in which the E/M service involves a different diagnosis from the procedure and services for which the clinical work is clearly distinct. Distinct ICD-10 diagnosis codes could provide an objective, claims-based mechanism for identifying such encounters without creating a routine requirement for extensive medical-record review.

A similar proposal was considered by CMS in 2019 and was ultimately not adopted. The concerns that warranted caution at that time remain relevant today, while the financial and workforce pressures confronting physician practices have, in many respects, become even more significant. I ask CMS to carefully consider the unique circumstances of Puerto Rico and the potential unintended consequences of this proposal before taking final action.

I urge CMS to withdraw the proposed 50 percent reduction in payment for E/M services reported with modifier -25**.** At a minimum, CMS should proceed with a modification to modifier -25 reimbursement. I also urge the agency to adopt appropriate exemptions and safeguards to protect

separately identifiable E/M services, preserve timely access to specialty care, and prevent unnecessary fragmentation of patient care.

Sincerely,

Pablo José Hernández
Member of Congress