

August 31, 1998

The Honorable Bill Archer  
U.S. House of Representatives  
1236 Longworth House Office Building  
Washington, DC 20515

Dear Congressman Archer:

The Practice Expense *Fairness* Coalition, representing the undersigned organizations with a combined membership of over 200,000 physicians, is writing to share with you our comments on HCFA's interpretation of one key provision in the Balanced Budget Act of 1997 (BBA 97) relating to payments for physicians' practice expenses under the Medicare fee schedule.

BBA 97 increased the 1998 PE-RVUs for office visits, while lowering them for procedures whose work relative value units (RVUs) exceeded their practice expense RVUs by more than 110 percent. The intent of this provision, often referred to as a "down payment" for office visits, was to begin the process of raising PE payments for office visits, while lowering them for overvalued procedures, consistent with the changes expected under resource-based practice expenses. Maintaining the down payment in the transition years benefit office visit services and it will also benefit global surgical fees that include office visits within the global fee.

The law also delayed implementation of resource-based practice expenses for one year, mandated a four year transition over calendar years 1999-2002, and required that HCFA consider additional data on the costs of providing physician services.

Our coalition strongly supported the "down payment" provisions. We are extremely concerned, however, that HCFA is being urged by some groups to eliminate the "down payment" after 1998.

We believe that the legislative history of this provision clearly demonstrated that Congress intended for the PE-RVUs, as adjusted by the "down payment", to be the basis for the "blended" transition during CY 1999, 2000, and 2001.

In its proposed rule published in June, HCFA proposed that the PE-RVUs that are *applicable in 1998* would be blended with the resource-based RVUs according to the increments specified by the BBA 97. In rejecting a suggestion that HCFA revert to the 1997 PE-RVUs when calculating the transition, the agency stated that it could not use the 1997 PE-RVUs because "we do not believe that we could treat the reductions enacted by the BBA 1997 any differently from the similar reductions enacted in OBRA 1993 on practice expenses for 1994, 1995, and 1996."

HCFA also noted that reverting to the PE-RVUs as they existed prior to the adjustments mandated by the 1993 and 1997 amendments would "create practical problems of requiring imputation of practice expense RVUs for the many new codes that have been established between 1991 and 1998; it would seem contrary to the statute's plain intent of moving toward a resource-based system." HCFA noted that "this alternative could also potentially result in a

'yo-yoing' of practice expense RVUs between 1998 and future years. Practice expense RVUs for certain procedures explicitly increased by Congress in 1998 could be reduced in 1999 only to be increased again when the practice expense is fully resource-based."

Finally, HCFA stated that "To adopt such a construction of the law would not gradually 'transition' payments to the new resource-based system, but instead would represent an abrupt change in direction, a result at odds with the purpose of having a transition period and with transitions previously established for payment changes in Medicare. We find nothing in the legislative history to suggest that the Congress intended for such an atypical transition."

Our Coalition strongly agrees with HCFA's decision to use the PE-RVUs that are applicable in 1998 as the basis for the subsequent transition, and the agency's compelling rationale for this determination. **We strongly urge you to write a letter to HCFA confirming that its interpretation of Congress' intent was correct. We also urge you to advise HCFA that it should reject arguments that it re-interpret this provision of the law in a way that would reverse the gains for primary care services intended by Congress when it enacted the "down payment" for office visits.**

Sincerely,

American Academy of Family Physicians  
American College of Physicians-American Society of Internal Medicine  
American College of Rheumatology  
American Osteopathic Association  
American Society of Clinical Oncology  
American Society of Geriatrics  
Renal Physicians Association