



Dear ENT Advocacy Network Member:

January 31, 2021

Legislative and political activity directly affects our practices and our patients. As a leading advocate for otolaryngology-head and neck surgery, we hope you enjoy reading this edition of *The ENT Advocate*, your premier source of advocacy information for the specialty!

## Lead Story

### AAO-HNS Joins Amicus Brief Challenging Provisions of No Surprises Act

The AAO-HNS Executive Committee approved joining an [amicus brief that supports the American Medical Association \(AMA\)/American Hospital Association \(AHA\) lawsuit](#) challenging certain provisions of the Interim Final Rule (IFR) titled "Requirements Related to Surprise Billing; Part II." This brief was filed on January 7, 2022, and accepted by the court on January 10. The Academy believes that the IFR, issued by the U.S. Department of Health and Human Services and other agencies on September 30, 2021, does not represent Congressional intent in drafting and passing the *No Surprises Act* and would cause irreparable harm to otolaryngologists and other physicians throughout the United States. The Academy joins eight other national medical associations, 16 state medical societies, and the Physician Advocacy Institute in this effort.

## Legislative and Political Reports

### Congress and President Biden Move to Avoid Most Cuts to Medicare Reimbursement for 2022

On December 10, 2021, President Biden signed into law legislation to avert the majority of Medicare reimbursement cuts that were scheduled to take effect on January 1, 2022. S. 610, the *Protecting Medicare and American Farmers from Sequester Cuts Act*, significantly reduces these cuts and instead phases in reductions of .75% on January 1, 2022, 1.75% in April 2022, and then a 2.75% for the second half of 2022. Prior to enactment of this legislative package, otolaryngologist-head and neck surgeons were faced with a 9.75% reduction to Medicare reimbursement for 2022. [The AAO-HNS advocated aggressively](#) on the urgent need to cancel these cuts. The Academy will now pivot to pushing Congress to undertake systemic reform of the Medicare program to ensure fair and sustainable Medicare physician reimbursement for physicians in 2023 and beyond.

### Congressional Update

As 2022 gets underway, Congress is currently deadlocked on many issues. The Build Back Better legislative package, which would expand Medicare to include additional hearing health benefits and hearing aid coverage, has passed through the U.S. House of Representatives but is currently stalled in the Senate. Due to Democrats having only a razor-thin majority in the Senate, and with multiple Senate Democrats publicly expressing serious doubts about this legislation as currently drafted, it is difficult to predict a path forward for this package at this time.

This year, the Academy will continue its work to advance the legislative priorities that will most benefit the specialty and patients treated by otolaryngologist-head and neck surgeons. These priorities include ongoing advocacy efforts to secure appropriate Medicare physician reimbursement, supporting legislation to reform the prior authorization process under Medicare Advantage, supporting legislation that would provide targeted

liability protections to physicians who volunteer their time and services during emergencies, and fighting against legislation that would inappropriately expand scope of practice for nonphysician providers.

### The PREVENT HPV Cancers Act Clears the U.S. House of Representatives

On November 30, 2021, the U.S. House of Representatives unanimously passed H.R. 1550, the *PREVENT HPV Cancers Act*. This bipartisan legislation would provide resources to the Centers for Disease Control and Prevention (CDC) to educate the public about the importance of human papillomavirus (HPV) vaccinations and direct the National Cancer Institute to expand research activities focused on HPV-associated cancers. The AAO-HNS strongly endorsed this legislation and thanks House sponsors, U.S. [Representatives Kathy Castor \(D-FL\)](#) and Kim Schrier, MD (D-WA), for their leadership in addressing this critical public health need. The Academy will continue advocacy activity in the U.S. Senate to work toward passage and enactment into law of the *PREVENT HPV Cancers Act of 2021*.

### Q4 PAC Dollars at Work

ENT PAC is an invaluable tool that strengthens the Academy's overall legislative advocacy efforts. We understand the importance of providing transparency and a greater understanding about how decisions are made regarding the specialty's political action committee. Therefore, in 2018 ENT PAC launched a new quarterly report titled "Your PAC Dollars at Work." [View your "Q4 PAC Dollars at Work"](#) summarizing ENT PAC activities to date in 2021. To invest in the future of the specialty, click [here!](#)

## Regulatory Reports

### No Surprises Act Interim Final Rule Comments

On December 6, 2021, the Academy joined 20 other surgical specialties in submitting [coalition comments](#) on the most recent *No Surprises Act* regulations. The joint comments register significant concerns with the interim final rule as written. The regulation establishes the median in-network rate as the default factor considered in the independent dispute resolution process. This could incentivize payers to set artificially low payment rates, creating more narrow provider networks and reducing access to care. The rules took effect on January 1, 2022. The Academy will continue advocating with federal agencies and Congress to ensure protections for patients and providers that are consistent with Congressional intent in passing the *No Surprises Act*.

The American Medical Association [produced a toolkit](#), "Preparing for Implementation of the No Surprises Act," that offers valuable guidance to physicians as this statute is implemented.

### CMS Releases Updated 2022 Physician Fee Schedule Conversion Factor

The Centers for Medicare & Medicaid Services (CMS) [posted an updated conversion factor](#) of \$34.6062 for services paid under the physician fee schedule in 2022. This represents a slight decrease (0.8%) from the 2021 conversion factor of \$34.8931. The conversion factor update, included in the *Protecting Medicare and American Farmers from Sequester Cuts Act*, came after months of advocacy by the AAO-HNS and other physician organizations to address the previously scheduled 9.75% in Medicare reimbursement cuts.

### CDC Updates and Shortens Recommended Isolation and Quarantine Period for General Population

The Centers for Disease Control and Prevention (CDC) on December 27, 2021 [shortened the recommended time for isolation for the public](#). People with COVID-19 should isolate for five days, and if they are asymptomatic or their symptoms are resolving (without fever for 24 hours), follow that by five days of wearing a mask when around others to minimize the risk of infecting people they encounter. For those who have a fever, they should continue to stay home until the fever resolves. According to the CDC's media statement, "The change is motivated by science demonstrating that the majority of SARS-CoV-2 transmission occurs early in the course of illness, generally in the one-to-two days prior to onset of symptoms and the two-to-three days after." Additionally, the CDC updated the recommended quarantine period for those exposed to COVID-19.

### MIPS 2021 Data Submission Period Open

The Centers for Medicare & Medicaid Services (CMS) has opened the data submission period for eligible clinicians and groups who plan to participate in the Merit-based Incentive Payments System (MIPS) 2021 performance year of the [Quality Payment Program \(QPP\)](#). Data can be submitted and updated through the QPP website until 8:00 pm (ET) on March 31. For practices reporting MIPS through Reg-ent<sup>SM</sup>, please look for communications from your FIGmd Client Account Manager regarding the MIPS submission module.

### **New Academy Coding Resources Available: Top 100 ENT Services for 2022**

The AAO-HNS has prepared two charts for members outlining the [top 100 Current Procedural Terminology \(CPT\) codes](#) reported by providers with the designation “4-Otolaryngology” within the Medicare database. The two charts describe the top 100 ENT codes billed in a physician office and the hospital outpatient department. The information is based on 2020 Medicare claims data, which is the most recent year for which data is available.

### **HHS Announces Additional Funding for Provider Relief Fund**

The U.S. Department of Health and Human Services (HHS) [announced](#) that an additional \$2 billion will be distributed this week to more than 7,600 providers through Provider Relief Fund (PRF) Phase 4 General Distribution payments. These payments follow the nearly \$9 billion in PRF Phase 4 distributions made in December 2021 to over 74,000 providers in all 50 states, Washington, DC, and five territories. Payments will be made to approved applicants for Phase 4 funding, terms and conditions must be agreed to within 90 days of payment receipt.

## Action Requested

### **New Volunteers Needed to Strengthen PROJECT 535**

Successful legislative advocacy starts with a solid grassroots foundation. Given Congressional focus on legislation addressing health policy and physician reimbursement in the 117th Congress, it's now more important than ever for the Academy to strengthen its key contacts network via PROJECT 535. In addition to the Academy's overall advocacy efforts, PROJECT 535 volunteers help reinforce our message by establishing personal relationships with federal elected officials. Federal lawmakers want to hear from YOU—their physician constituents! The commitment is minimal, but the impact is immense. To help further strengthen our collective advocacy efforts contact [govtaffairs@entnet.org](mailto:govtaffairs@entnet.org) for more information.

Sincerely,

Yolanda L. Troublefield, MD, JD  
BOG Legislative Affairs Committee Chair  
and the AAO-HNS Advocacy Team

If you no longer wish to receive important legislative and political updates via *The ENT Advocate*, please reply to this email with CANCEL ADVOCATE in the subject line.

For more information, contact [govtaffairs@entnet.org](mailto:govtaffairs@entnet.org). Don't forget to bookmark [The ENT Advocate!](#)

\*Contributions to ENT PAC are not deductible as charitable contributions for federal income tax purposes. Contributions are voluntary, and all members of the American Academy of Otolaryngology-Head and Neck Surgery have the right to refuse to contribute without reprisal. Federal law prohibits ENT PAC from accepting contributions from foreign nationals. By law, if your contributions are made using a personal check or credit card, ENT PAC may use your contribution only to support candidates in federal elections. All corporate contributions to ENT PAC will be used for educational and administrative fees of ENT PAC, and other activities permissible under federal law. Federal law requires ENT PAC to use its best efforts to collect and report the name, mailing address, occupation, and the name of the employer of individuals whose contributions exceed \$200 in a calendar year.

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