Statement

of the

American Medical Association

to the

U.S. House of Representatives Committee on Energy and Commerce
Subcommittee on Health

Re: Independent Payment Advisory Board

July 20, 2017

Division of Legislative Counsel
(202) 789-7426

STATEMENT

of the

American Medical Association

to the

U.S. House of Representatives Committee on Energy and Commerce
Subcommittee on Health

Re: Independent Payment Advisory Board

July 20, 2017

The American Medical Association (AMA) appreciates the opportunity to present our views to the U.S. House of Representatives Committee on Energy and Commerce concerning the Independent Payment Advisory Board (IPAB). As the largest professional association for physicians and the umbrella organization for state and specialty medical societies, the AMA strongly believes the Medicare program must protect access to quality health care for seniors and the disabled. For this reason, the AMA continues to support the repeal of IPAB. If triggered, IPAB would not only threaten patients' access to quality health care, it would also shift health care decision making from elected officials to an independent board with insufficient oversight or accountability. Congress has already recognized the threat that IPAB poses to Medicare, and there remains an overwhelming bipartisan, bicameral support in Congress and among major stakeholders to repeal IPAB. And, with projections indicating a growing cost to repeal IPAB in the future, the time to act is now. We therefore strongly urge Congress to take immediate action to repeal IPAB.

The AMA appreciates the need to stabilize the growth of spending in Medicare while still providing Medicare beneficiaries access to high quality health care. However, the AMA believes this is best achieved by Congress working in a bipartisan manner with physicians and other stakeholders to improve patient care and reduce costs. The AMA remains ready to work with both Congress and the Centers for Medicare and Medicaid Services (CMS) to repeal IPAB and preserve access to quality health care for patients now, and in the future.

Background

Section 3403 of the Affordable Care Act (ACA) created the IPAB, an independent 15-member body. Under current law, IPAB would submit proposals to the president and Congress for years in which the projected rate of growth in Medicare spending exceeds the specified target levels. In 2013 through 2017, the threshold rate of growth in Medicare spending per beneficiary is calculated by averaging the increase in the Consumer Price Index for All Urban Consumers (CPI-U) and CPI-U medical care expenditure category. In 2018 and beyond, the law requires IPAB to propose savings if the projected rate of growth

in Medicare spending exceeds the specified target: the estimated increase in the Gross Domestic Product (GDP) plus 1.0 percent.[i]

If the growth in Medicare spending exceeds the specified target, IPAB must develop proposals to reduce spending down to specified target levels. If IPAB does not submit a proposal, the Secretary of the U.S. Department of Health and Human Services (HHS) is directed to develop and implement proposals to achieve target savings. IPAB or the Secretary's proposals will automatically take effect unless Congress enacts an alternative proposal that achieves the same savings or acts to discontinue the automatic implementation process provided in the statute.

Support for repealing IPAB is widespread among stakeholders in the health care community. In May 2017, more than 650 health care organizations, including the AMA, signed onto a letter to Congress supporting the repeal of IPAB. Groups supporting IPAB repeal include organizations representing a vast range of patients, health care providers, insurers, and manufacturers.

Process Issues

The AMA is concerned that the IPAB process places too much power in the hands of an independent, unelected body subject to limited oversight and accountability. During the IPAB proposal process, once the Secretary of HHS implements an IPAB recommendation, the action is not subject to administrative or judicial review. Therefore, IPAB has unprecedented powers to make significant decisions affecting the Medicare program without any check or balance to its determinations. The AMA believes that the power to make widespread changes to the Medicare program should remain with elected officials in Congress.

Furthermore, the AMA is concerned that spending cuts recommended by IPAB may be overly broad, not based on sufficient evidence, and likely to negatively impact structural health care reform. IPAB cuts can only be made to a small portion of health care spending, making widespread systematic changes under IPAB unlikely. Additionally, the IPAB process does not lend itself to long term planning regarding how to improve the Medicare system. Therefore, the AMA believes Congress should retain the power to make all Medicare spending decisions, and work with stakeholders to develop a long-range plan to achieve Medicare savings goals. While the AMA is very interested in working with Congress and CMS to improve the Medicare program, IPAB is not the appropriate way to achieve Medicare savings.

The AMA was strongly supportive when Congress replaced the flawed, target-based Sustainable Growth Rate (SGR) formula with a new payment system under the Medicare Access and CHIP Reauthorization Act (MACRA) in 2015. Under MACRA, the variable payment updates under the SGR formula were replaced with specified payment updates for 2019 and beyond. This consistency allows physicians to engage in long-range planning and adoption of new technologies or quality improvement initiatives. Conversely, IPAB would reinstate a process similar to that under the SGR, where physicians faced uncertainty regarding their reimbursements and arbitrary cuts each year.

Immediate Action Needed

The Medicare Trustees report released July 13, 2017 predicts that spending levels in Medicare did not exceed targeted spending levels, and therefore IPAB will not be triggered in 2017. However, the AMA continues to believe that immediate action is needed because repealing IPAB will become more costly in future years. Immediate repeal would be a fiscally prudent legislative achievement that avoids projected higher costs if repeal was delayed. Also, by avoiding the threat of arbitrary cuts to Medicare, immediate repeal would allow Medicare providers to better plan to integrate new technologies and quality improvement initiatives. Given the increasing cost and the strong bipartisan, bicameral support for repeal, in addition to the overwhelming support for repeal from stakeholders, the AMA strongly urges Congress to take action now to repeal the IPAB.

Current Efforts to Incentivize High Quality, Low Cost Care

Physicians are already being held accountable for providing high quality, low cost care to Medicare beneficiaries under the Quality Payment Program (QPP). The Merit-Based Incentive Payment System (MIPS) provides physicians with positive or negative payment adjustments based on data they report on quality and cost measures. MIPS also rewards the use of electronic health records and the adoption of practice improvement activities. Physicians who provide high cost, low quality care will receive negative payment adjustments under the QPP. Physicians face penalties of up to four percent in 2019, increasing to penalties of up to nine percent in 2022 and subsequent years. MIPS already rewards physicians who provide quality, cost-effective health care and penalizes those who do not. The potential of additional arbitrary payment cuts from IPAB would compound the challenges facing physicians who are transitioning to the MIPS program and using feedback from MIPS to reduce health care costs.

Moreover, the QPP encourages physicians to participate in Alternative Payment Models, which are proven to reduce health care costs without affecting health care quality. The adoption of alternative payment and delivery models by physicians and practices will continue to bend the Medicare spending cost curve. MACRA also created the Physician-Focused Payment Model Technical Advisory Committee (PTAC) which reviews new alternative payment models and makes recommendations to the Secretary of HHS. The number of proposals and level of interest in PTAC since its creation illustrates physicians' interest and readiness to engage in innovative, alternative payment and delivery models once they are available. IPAB moves away from these structural reform efforts and focuses solely on reductions to a small portion of health care spending.

Protect Seniors' Access to Care

Arbitrary IPAB physician payment cuts may create Medicare access issues for beneficiaries. Specifically, physician reimbursement under Medicare could become so low that physicians have to stop accepting Medicare patients. Physician payments are already reduced annually by two percent due to sequestration, and physicians face possible penalties under the QPP of up to nine percent in future years. Adding further financial strains on physician practices

could inhibit physicians' ability to invest in new technologies necessary to maintain and improve patient care.

While the AMA supports efforts to improve the quality of health care and bring greater cost-efficiency to the Medicare program, we do not believe that IPAB will help achieve either of these goals. Instead, Congress should work with stakeholders to develop smarter solutions to achieve necessary Medicare spending targets. The AMA appreciates the opportunity to provide our comments on this critical matter, and we look forward to working with the Committee and Congress to repeal IPAB.

---

[i] Shatto, J. & Clemens, M. *Projected Medicare Expenditures under an Illustrative Scenario with Alternative Payment Updates to Medicare Providers*. Washington, DC: Centers for Medicare and Medicaid Services. July 22, 2015.