

Dear Colleagues,

As many of you are aware, on January 17, 2017, the *Journal of the American Medical Association (JAMA)* published a research letter, "Variation in the Ratio of Physician Charges to Medicare Payments by Specialty and Region," in which the authors profess to analyze physician "excess charges."

I am disappointed in *JAMA's* publication of this letter. The impressions conveyed and conclusions made are fundamentally flawed. The authors begin with an extremely misleading definition upon which the article is based – that any charge greater than what Medicare allows is an "excess charge." They defined "excess charge" as "total charges divided by total Medicare allowable amount for medical services." The word *excess* is defined as beyond sufficiency or necessity, or exceeding what is proper. The authors are suggesting that Medicare should be considered a reasonable benchmark for payment for physicians' professional services, that Medicare pays adequately among all medical specialties, that Medicare pays equitably among all medical specialties, and that charging more than Medicare is somehow inappropriate or wrong, none of which is accurate.

Medicare payment is not a reasonable benchmark for determining fair market value payment to physicians for their services. Medicare payments are not determined by free-market principles and practice. Instead, Medicare payments, including those paid to physicians, are determined according to the federal budget. Physicians have no input through usual and customary business negotiations. The federal government sets the price. Private practice physicians operating from their own offices can decide not to accept Medicare patients due to inadequate payment for services, but hospital-based physicians, such as physician anesthesiologists, provide care to all patients regardless of the payment. The Medicare payments to all physicians are significantly less than commercial prices and in some cases, like anesthesiology, are less than the cost of providing the care. Because Medicare payments are significantly below fair market value, and for anesthesiology are only 30.9 percent of average commercial rates, private insurance companies subsidize Medicare (and Medicaid) by paying higher rates.

I want to assure you that I am personally working to have the concerns of our specialty addressed. To that end, I want to communicate with all of you the steps we are taking to tackle the inaccuracies and outright errors contained in the letter.

As you know, I have already completed a number of interviews with the media where I pointed out fundamental flaws in the letter. In addition to the faulty premise that anything billed above Medicare allowed is "excess," the *JAMA* letter incorrectly makes two claims: 1) that no study exists illustrating that Medicare underpays certain medical

specialties as compared to other specialties and other payers; and 2) that no national database exists containing physicians' billing amounts. Both of these assertions are demonstrably false.

As we all know, in 2007 the Government Accountability Office (GAO) was commissioned by the U.S. Congress to assess anesthesiology payments and it confirmed that Medicare paid 33 percent of the usual and customary fees for anesthesiology (now 30.9 percent). The GAO's findings have been confirmed every year by ASA's own anesthesia conversion factor surveys. And with regard to the second inaccurate claim, we are all familiar with the FAIR Health database, an independent, non-conflicted database of physicians' billed charges presented according to geographic zones.

Reporters were all told by us that the root cause of surprise bills is not physicians' balance billing, but is rather surprise gaps in insurance coverage, surprise huge copays and deductibles, and woefully inadequate and tiered networks that are all a part of the excessively complicated insurance plans commonly marketed non-transparently today.

We have drafted a formal letter to editor to *JAMA* noting all of these points. I look forward to sharing our information with the editor and *JAMA*'s editorial board and engaging them in a discussion about our concerns.

Judging by the tremendous number of complaints that we have received, we know this letter was very disturbing to every physician anesthesiologist who reads it. Please know that we, in leadership, are doing our utmost to effectively address our shared concerns.

Sincerely,

Jeffrey S. Plagenhoef, M.D.
ASA President