

FY 2023 Consolidated Appropriations Act, 2023 Summary

January 6, 2023

On December 29, 2022, President Biden signed H.R.2617, Consolidated Appropriations Act, 2023. This is the Fiscal Year budget for 2023, which runs October 1st to September 30th each year. Due to various delays, the budget was finally approved at the end of 2022.

Within [H.R.2617, Consolidated Appropriations Act, 2023](#), there are several provisions which impact Medicare and CY 2023 Medicare Physician Fee Schedule (MPFS) final rule. In addition, there are some changes to telehealth services once the public health emergency (PHE) ends (set to expire January 11, 2023), which are also changes to the budget finalized for FY 2022.

Medicare Physician Fee Schedule (MPFS) Changes

For CY 2023 CMS finalized a Conversion Factor (CF) of \$33.0607, a 4.6 percent decrease from CY 2022. A decrease of 1.6 percent was due to budget neutrality, attributed to updates to evaluation and management (E/M) visits for inpatient and other visit codes for 2023. The remaining 3 percent decrease was due to the expiration of the Protecting Medicare and American Farmers from Sequester Cuts Act signed into law December 10, 2021, after the CY 2022 final rule, which increased the CF for 2022 by 3 percent. CMS could not reverse this expiration and resulted in the finalized CF decrease of 4.6 percent for CY 2023.

The Consolidated Appropriations Act, 2023 did not reverse the full 3 percent decrease in the CF from 2022 to 2023; instead, an increase of 2.5 percent was added for CY 2023. H.R.2617 did not address the reductions by CMS due to budget neutrality which results in a new CY 2023 CF of \$33.8872. On January 5, 2023, CMS released an updated file that included changes to relative value units (RVUs) for several codes specific to interventional radiology. Some changes were an increase in value, while others were a decrease. It is unknown at this time why the changes were made, if these were identified errors or some other adjustment from the final rule payment files released in November 2022.

Looking ahead, the Consolidated Appropriations Act, 2023 also outlined an increase in the CF of 1.25 percent for CY 2024. This will still result in an automatic 1.25 percent decrease moving into 2024 because Congress did not extend the full 2.5 percent provided for 2023 to continue in 2024. It is expected there will be other impacts to the CF for 2024 which may still decrease payment rates.

The Consolidated Appropriations Act, 2023 also provides a one-year extension to Alternative Payment Model (APM) bonuses under the Quality Payment Program (QPP). The extension will not provide the current 5 percent bonus, but instead will provide a 3.5 percent bonus to those participants that meet the criteria and qualify for the bonus payment.

PAYGO Payment Reductions

The Statutory Pay-As-You-Go [PAYGO] Act of 2010 outlines payment sequestration is necessary to offset costs such as mandatory spending increases. In response to COVID-19, there were many waivers and provisions which increased spending to respond to the pandemic. Due to this, a sequestration (decrease) of 4 percent was to begin January 1, 2023.

The Consolidated Appropriations Act, 2023 outlines a delay in the 4 percent PAYGO sequestration until January 2025, which is a 2-year delay. Attention will need to be paid to this to determine what changes there may be for upcoming payments due to this sequestration in addition to any other cuts.

These payment reductions are at the individual code level for Medicare payments and would be in addition to the 2 percent sequestration to Part A and Part B since April 2013. The Consolidated Appropriations Act, 2023 also outlined continuation of the 2 percent sequestration through the first 6 months of 2032. The last 6 months of 2032 will have a 0 percent reduction, thus ending this payment revision.

Telehealth Beyond COVID-19

The Consolidated Appropriations Act, 2023 also addresses telehealth after the PHE ends. The Protecting Medicare and American Farmers from Sequester Cuts Act outlined many of the waivers and extensions as part of the PHE, including telehealth, would continue for 151 days after the PHE ends. On day 152 the waivers and extensions not specifically extended, will end.

The following telehealth services will continue until December 31, 2024, even if the PHE ends in 2023 and the 151 days does not extend that far, some specific services will continue:

- Removal of geographic requirements
- Expanding originating sites for telehealth services
- Coverage and payment for audio-only telehealth services

Extension of Pass-through Status for Certain Devices

Devices which have been assigned pass-through status and scheduled to end on December 31, 2022, will have a one-year extension beginning January 1, 2023. These devices are identified by CMS and typically assigned pass-through for 2 years, but not more than 3. Due to COVID-19 and the impacts this has had on services, the payment extension of average sales price (ASP) +6 percent will continue for these devices to assist in data collection for future ratesetting.