



July 9, 2018

The Honorable Rodney Frelinghuysen  
Chairman, House Committee on  
Appropriations  
H-305, The Capitol  
Washington, DC 20515

The Honorable Nita Lowey  
Ranking Member, House Committee on  
Appropriations  
H-305, The Capitol  
Washington, DC 20515

The Honorable Tom Cole  
Chairman, Subcommittee on Labor,  
Health and Human Services, Education and  
Related Agencies  
House Committee on Appropriations  
H-305, The Capitol  
Washington, DC 20515

The Honorable Rosa DeLauro  
Ranking Member, Subcommittee on Labor,  
Health and Human Services, Education and  
Related Agencies  
House Committee on Appropriations  
H-305, The Capitol  
Washington, DC 20515

## **DELIVERED ELECTRONICALLY**

Dear Representatives Frelinghuysen, Lowey, Cole, and DeLauro:

On behalf of the American Clinical Laboratory Association (ACLA), I am writing in opposition to report language titled, “*Clinical Laboratory Fee Schedule*” (CLFS), on page 89 of the current House Report for the Departments of Labor, Health and Human Services, and Education, and Related Agencies (LHHS), 2019, as published on the House Appropriations Committee website on June 25, 2018.<sup>1</sup> The CLFS report language “encourages” the Centers for Medicare & Medicaid Services (CMS) to review Medicare reimbursement for clinical laboratory services provided in test panels as compared to reimbursement for individually ordered services. ACLA respectfully requests that the Committee not include the CLFS report language in the FY2019 House LHHS Report and, instead, work with ACLA on legislative efforts already underway to fix reimbursement reform under the CLFS.

In 2014, Congress enacted broad-sweeping reforms to the Medicare CLFS through Section 216 of the *Protecting Access to Medicare Act of 2014* (PAMA). The Congressional intent for CLFS reform was to move from a static fee schedule to a market-based system, basing Medicare reimbursement on payments private payers make to the broad spectrum of laboratory providers, independent laboratories, hospital laboratories, and physician office laboratories. Implemented according to the intent of Congress, the reformed payment system would have provided consistency and predictability for laboratory providers, maintained access for Medicare beneficiaries, and generated savings to the Medicare program.

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<sup>1</sup> See <https://docs.house.gov/meetings/AP/AP00/20180626/108473/HRPT-115-HR.pdf>, page 89

Instead, CMS ignored the intent of Congress and implemented a flawed and burdensome system that prohibited data from the overwhelming majority of laboratory providers to be considered in setting Medicare rates.

The result of CMS's biased and skewed data collection is reimbursement rates that are not market-based, and not in keeping with the Congress's original intent. The CLFS is now scheduled on an unsustainable succession of annual cuts which began earlier this year on January 1, 2018. Overall, the entire CLFS is scheduled to be cut by over 20 percent with eighteen of the top twenty-five lab tests (by CLFS spending) cut by more than 30 percent, and another three of the top twenty-five cut by over 20 percent. Patients with diabetes, heart disease, infections, liver and kidney disease, and countless other common, everyday illnesses depend heavily on these tests management of their diseases and conditions.

The language in the House subcommittee report would move Medicare rates even further away from the market-based system directed by Congress, threatening Medicare beneficiary access to lab services. The cuts to the above and countless other tests are provided every day for millions of elderly and disabled patients not only to aid in diagnosing disease, but also monitor health and even help guide prevention regimens. Simply put, without Congressional intervention, Medicare beneficiary access to clinical laboratory services and the better health outcomes that lab tests enable are under dire threat.

Given the gravity and threat for Medicare beneficiary access, ACLA respectfully requests that the Committee not include the CLFS report language in the FY2019 House LHHS Report and, instead, work with ACLA, the laboratory stakeholder community, and your colleagues on the authorizing committees to ensure that PAMA fulfills its original intent to provide fair and accurate market-based CLFS reimbursement to protect Medicare access to laboratory services for the millions of Medicare beneficiaries.

We are happy to meet with you at your earliest convenience to discuss our concerns and legislative efforts to fix PAMA in more detail. For scheduling or additional information, please contact Vice President for Government Relations, Tom Sparkman, at [tsparkman@acla.com](mailto:tsparkman@acla.com) or 202-637-9466.

Thank you for considering our views.

Sincerely,



Julie Khani  
President

cc:

The Honorable Richard Shelby  
The Honorable Patrick Leahy  
The Honorable Roy Blunt  
The Honorable Patty Murray

The Honorable Orrin Hatch  
The Honorable Ron Wyden  
The Honorable Greg Walden  
The Honorable Frank Pallone  
The Honorable Michael Burgess  
The Honorable Gene Green  
The Honorable Kevin Brady  
The Honorable Richard Neal  
The Honorable Peter Roskam  
The Honorable Sander Levin