November 21, 2025

Chairman Andrew N. Ferguson
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Administrator Mehmet Oz, MD
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Attorney General Pam Bondi
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Subject: Request for Investigation into Anti-Competitive Health Plan Downcoding

Dear Commissioner, Administrator and Attorney General,

On behalf of the American Academy of Family Physicians (AAFP), representing 128,300 family physicians, residents, and medical students across the country, I am writing to formally request that the Federal Trade Commission, the Department of Justice, and the Centers for Medicare and Medicaid Services investigate the growing practice of "downcoding" by health plans, which is quietly undermining the financial viability of independent primary care practices and potentially distorting competition in the healthcare market, all to the detriment of American patients who rely on these physicians for their care.

Background and Concerns

Over the past several months, you may have become aware of the practice of Evaluation and Management downcoding due to numerous publications[i, ii, iii] detailing this concerning trend. Downcoding occurs when health plans, without consulting the physician who provided the patient care, assign a lower-level E/M code than the one that was actually provided by the physician and billed on the claim. This results in a lower rate of payment that physicians are forced to either accept or pursue costly, time-consuming appeals, which only further takes time and resources away from patient care.

Downcoding is often only discovered by practices when they notice underpayments for services rendered. In letters to specific payers and America's Health Insurance Plans (AHIP), the AAFP has expressed its concern about this and other aspects of the downcoding programs. We have requested greater transparency regarding the methodologies for identifying targeted individuals and offered our assistance in educating family physicians regarding accurate coding criteria – something that the AAFP regularly offers to all of its members. To date, AAFP and its members have not been able to secure any guidelines, standards, or rules from payers with which physicians could educate themselves to improve

their billing and documentation in order to avoid having their claims downcoded. Rather, these programs appear to be using algorithms that lack transparency and are applied without full clinical context. For example, these programs frequently appear to make decisions based solely on the diagnosis listed on claims, without reviewing medical records or consulting with physician practices which do not adhere to the Current Procedural Terminology (CPT) guidance, the industry accepted standard.

If these programs are designed to ensure accurate billing and prevent fraud, waste, and abuse then these policies should be transparent, fair, and uniformly applied.

Primary care practices have been significantly affected and may be disproportionately harmed by these programs. A primary care visit often involves complex decision making for numerous interrelated issues: from preventive care to management of chronic conditions to coordination of additional services with other providers and specialists. When payers downcode these visits, payment significantly declines, with some practices experiencing six figure losses.[iv] This is an existential threat to many practices – especially those in rural and underserved areas who may be the only healthcare access point for entire communities.

When a service is downcoded, practices must choose between accepting the lower payment or appealing the claim. But the latter option may be prohibitively expensive. The average administrative cost to pursue denials and delays per claim is estimated at over $47.77 for Medicare Advantage and $63.76 for commercial plans. For small practices, this can result in tens of thousands of dollars in annual losses, excluding lost revenue from underpaid claims.

This trend flies in the face of recent pledges by health plans to the Trump Administration that they would reduce administrative burdens on physicians.[v] While these plans have publicly promised to reduce prior authorizations, the reality is that downcoding simply shifts this burden to after care is delivered.

Potential Anticompetitive Behavior

In addition to the significant threat that downcoding presents to the already fragile primary care ecosystem, we fear this practice may at times run counter to the intent of several federal laws intended to ensure free and fair markets.

As health plans continue to acquire and consolidate physician practices directly or through subsidiaries, they are increasingly incentivized to financially disadvantage unaffiliated, competing providers.[vi] A health plan could use selective downcoding to suppress payment to unaffiliated providers while preserving full payment to its own, effectively distorting competition in the provider market. This tactic can shift market share, entrench vertical integration, and raise rivals' costs. It may also be the case that algorithms used for downcoding are aggregating non-public data and sharing it among competing payors in the

form of downcoding recommendations or actions in a coordinating fashion. All of this may trigger scrutiny under antitrust laws like the Sherman and Clayton Acts.

The lack of transparency around these downcoding programs already raises concerns that they are not motivated by a desire to ensure claims integrity, and the additional conflict of interest—where health plans both adjudicate claims and compete in the provider market—warrants regulatory scrutiny.

Legal experts and regulators have already expressed concern about consolidation and vertical integration in healthcare. Selective and/or coordinated downcoding, if happening, may constitute market manipulation and/or collusion by market participants, weakening independent practices and enabling payers to justify lower fee schedules in future negotiations. The end result is reduced choices, higher prices, or lower quality for patients.

Recommendations for Transparency and Accountability

To protect the integrity of the healthcare system and ensure fair competition, I urge the FTC and DOJ to:

- Investigate the use and impact of downcoding algorithms by health plans;
- Require disclosure of downcoding criteria and ensure uniform application—including to health plan-owned practices;
- Mandate streamlined, transparent appeals processes with clear standards and timelines; and
- Engage physicians and regulators in oversight of these practices.

Given the unique role of primary care physicians, it is both reasonable and necessary to exclude them from downcoding programs. The administrative burden and financial uncertainty introduced by these programs threaten the sustainability of primary care, ultimately jeopardizing patient access and outcomes.

Conclusion

Downcoding represents a silent siphon for independent primary care practices—draining resources from the very physicians who form the backbone of our healthcare system, while tilting the competitive landscape in favor of payer-owned entities, potentially by using algorithmic pricing tools similar to those challenged by regulators in other situations. I respectfully request that your agencies investigate these practices and, if appropriate, take necessary actions to ensure transparency, accountability, and fair competition in the healthcare market.

Thank you for your attention to this urgent matter. Should you have any questions, please contact Stephanie Quinn, Senior Vice President, External Affairs & Practice Experience at squinn@aafp.org.

Sincerely,

Jen Brull, MD, FAAFP
American Academy of Physicians, Board Chair

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[i] Abou-Sabe, K. (2025, October 9). *'Guilty until proven innocent': Inside the fight between doctors and insurance companies over 'downcoding'*. NBC News. https://www.nbcnews.com/health/health-care/guilty-proven-innocent-fight-doctors-insurance-companies-downcoding-rcna230714

[ii] Klawans, J. (2025, October 22). *Doctors sound the alarm about insurance company 'downcoding'*. The Week. https://theweek.com/health/doctors-sound-alarm-insurance-downcoding

[iii] Nadelson, R. (2025, September 29). *Insurance companies are on a new slippery slope: Downcoding*. STAT. https://www.statnews.com/2025/09/29/cigna-downcoding-prior-authorization-doctors-bureaucracy/

[iv] McDowell, C. (2025). *The Rise of Automated Downcoding: Trends, Causes, and Strategies for Physician Practices*. Karen Zupko & Associates, Inc. Retrieved from https://www.kzanow.com/articles/automated-downcoding

[v] U.S. Department of Health and Human Services. (2025, June 23). *HHS Secretary Kennedy, CMS Administrator Oz secure industry pledge to fix broken prior authorization system*. https://www.hhs.gov/press-room/kennedy-oz-cms-secure-healthcare-industry-pledge-to-fix-prior-authorization-system.html

[vi] Patel, K., & Johnson, R. (2025). *Advancing Rural Health Equity Through Payment Reform*. *Health Affairs*, 44(10). https://doi.org/10.1377/hlthaff.2025.00155

1133 Connecticut Ave., NW, Ste. 1100
Washington, DC 20036-1011

info@aafp.org (800) 794-7481
ww.aafp.org (202) 232-9033