National Health Council

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September 24, 2018

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
7500 Security Blvd.
Baltimore, MD 21244-8013

RE: Medicare Program: Proposed Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Requests for Information on Promoting Interoperability and Electronic Health Care Information, Price Transparency, and Leveraging Authority for the Competitive Acquisition Program for Part B Drugs and Biologicals for a Potential CMS Innovation Center Model [CMS-1695-P]

Dear Administrator Verma:

The National Health Council appreciates the opportunity to comment on the proposed changes to the Medicare Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System.

Founded in 1920, the NHC is the only organization that brings together all segments of the health community to provide a united voice for the more than 160 million people with chronic diseases and disabilities and their family caregivers. Made up of more than 125 diverse national health-related organizations and businesses, the NHC's core membership includes the nation's leading patient advocacy organizations, which control its governance and policy-making process. Other members include professional and membership associations; nonprofit organizations with an interest in health; and representatives from the pharmaceutical, generic drug, health insurance, device, and biotechnology industries.

The NHC fully supports the Administration's efforts to increase transparency of hospital charges and to combat the nation's opioid crisis through increasing access to alternative pain management techniques. However, we are concerned about potential access issues created by the reconstitution of the competitive acquisition program if not implemented in an incremental fashion with appropriate patient protections.

The NHC Supports CMS' Efforts to Make Hospital Charges More Transparent to Patients and Consumers.

The NHC fully supports efforts to provide greater system-wide transparency of health care costs. If structured in a way that provides meaningful information about the cost of care, patients will be better able to seek care that best meets their

needs. Thus, the NHC appreciates CMS' interest in improving the accessibility and utility of provider "charge" information and agrees with CMS' concern that:

> [F]or providers and suppliers that maintain a list of standard charges, the charge data are not helpful to patients for determining what they are likely to pay for a particular service or facility encounter. In order to promote greater price transparency for patients, we are considering ways to improve the accessibility and usability of current charge information.

The NHC believes that provider reporting of charges, like all transparency initiatives, should further the goal of improving timely access to information that supports informed decisions and facilitates timely access to the most appropriate course of treatment for the individual patient. From the perspective of patients, the most important cost-related information is the impact on their bottom-line – out-of-pocket cost for treatment. We urge CMS to:

- require providers to disclose information in machine-readable format;
- encourage, incentivize, and/or require MA plans, Medicare supplemental plans, Medicaid MCOs, and ACA plans to maintain an interface for their beneficiaries that provides an estimate of out-of-pocket costs that patients can access and utilize when making health care decisions; and
- maintain transparency for patients with respect to out-of-network costs that might be associated with their care. Patients are often unaware that specific services administered by a provider they believe is "in network" are treated as out-of-network costs until they receive a bill they were not expecting.

CMS should finalize and seek to expand the proposed policy that provides separate payment in the ambulatory surgical center (ASC) setting for pain management drugs that function as surgical supplies.

The NHC is acutely aware of the current opioid use epidemic and applauds CMS for the pragmatic proposal to remove disincentives for use of non-opioid alternatives associated with its bundled payment methodologies. CMS noted that non-opioid alternatives to address pain are underutilized in the ASC setting, and stated that "it may be appropriate to pay separately for evidence-based non-opioid pain management drugs that function as a supply in surgical procedure in the ASC setting to address the decreased utilization of these drugs and to encourage use of these types of drugs rather than prescription opioids."

We support CMS's efforts to appropriately reimburse providers that strive to reduce opioid use and urge CMS to apply this principle across its prospective payment systems and beyond the context of a surgical procedure. Chronic conditions are often associated with severe pain, either in acute episodes or throughout disease process. We urge CMS to assess any reimbursement barriers to treatments addressing these conditions that mitigate the need for, or duration of, opioid pain relief.

Request for Information: Leveraging the Authority of the Competitive Acquisition Program (CAP) for Part B Drugs and Biologicals for a Potential CMS Innovation Center Model.

The NHC appreciates that CMS continues to seek stakeholder input and incorporate it into more specific potential initiatives to operationalize the Administration's "Blueprint to Lower Drug Prices

and Reduce Out-of-Pocket Costs" (the "Blueprint"). The NHC remains committed to the Administration's goals to improve competition, promote better negotiation, lower list prices, and reduce out-of-pocket costs. We remain committed to working with Congress and the Administration on drug pricing reforms that promote high-value health care, stimulate research and competition, and curb costs responsibly.

As a threshold matter, the NHC urges CMS to ensure that any CAP-like model designed and implemented through the Center for Medicare and Medicaid Innovation (CMMI) remain tethered to the statutory language and intent of CMMI models to be focused on improving outcomes while reducing costs. Our comments on the Blueprint urged the Administration to approach potential CAP implementation incrementally, such as focusing on a smaller subset of medical specialties and/or types of medicines as a pilot, so that unintended or unanticipated structural hurdles do not impede physician decision-making and patient access.

A CAP-like model through CMMI should also be:

- initially focused on patient subpopulations and disease states where care deficits exist, and outcomes can be improved through the model;
- designed with a goal of improving patient outcomes while reducing, or at least not increasing care costs;
- implemented to ensure that, regardless of any potential cost savings, patient outcomes will not be compromised; and
- based on identified outcomes that patients care about to inform structure, design, and patient-centered outcomes for model evaluation.

The NHC is concerned that development of models that are designed primarily to reduce drug costs, and that use cost as a proxy for value, have the potential to move CMMI off course in achieving its goal of improving patient care.

We urge CMS and CMMI to include meaningful patient protection mechanisms in any CAP or CAP-like model. Patients must be informed of any incentives and disincentives that could drive treatment toward or away from medically-accepted treatment options. They should also have the opportunity to opt out of any model that could impact what treatment they receive. In addition, CMS and CMMI should maintain a streamlined process through which providers and patients can identify access issues and achieve timely resolution.

Please do not hesitate to contact Eric Gascho, Vice President of Policy and Government Affairs, if you or your staff would like to discuss these issues in greater detail. He is reachable by phone at 202-973-0545 or via e-mail at egascho@nhcouncil.org.

Sincerely,

Marc Boutin, JD
Chief Executive Officer