



September 6, 2022

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Blvd  
Baltimore, MD 21244

**RE: CMS-1770-P: Medicare and Medicaid Programs; CY 2023 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicare and Medicaid Provider Enrollment Policies, Including for Skilled Nursing Facilities; Conditions of Payment for Suppliers of Durable Medicaid Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); and Implementing Requirements for Manufacturers of Certain Single-Dose Container or Single-Use Package Drugs To Provide Refunds With Respect to Discarded Amounts**

Dear Administrator Brooks-LaSure:

The National Health Council (NHC) appreciates the opportunity to provide comments to the Centers for Medicare & Medicaid Services' (CMS') proposed rule on 2023 Payment Policies Under the Physician Fee Schedule (PFS).

Created by and for patient organizations over 100 years ago, the NHC brings diverse organizations together to forge consensus and drive patient-centered health policy. We promote increased access to affordable, high-value, equitable, sustainable health care. Made up of more than 145 national health-related organizations and businesses, the NHC's core membership includes the nation's leading patient organizations. Other members include health-related associations and nonprofit organizations including the provider, research, and family caregiver communities; and businesses and organization representing biopharmaceuticals, devices, diagnostics, generics, and payers.

Of particular importance to the NHC are questions CMS raised regarding increasing health equity. The NHC is fully committed to mobilizing our members to advance health equity from the patient perspective. The NHC has historically engaged in health equity advocacy through much of the work that we do with our members. The COVID-19 pandemic and the national dialogue on equity that emerged in 2020 strengthened our resolve to focus on a more coordinated, mission-focused approach to our health equity work. We undertook an 18-month-long effort to identify where equity gaps exist in the health ecosystem. Through engagement with leaders in the health and other sectors, we found consensus on defining the problem and areas of prioritization, reflected in the recommendations of our report, [Access, Affordability and Quality: A Patient-Focused Blueprint for Real Health Equity](#). The four core areas of focus are:

- [Equitable Access to Affordable and Comprehensive Health Insurance Coverage](#);

- [Access to Care](#);
- [Social Determinants of Health](#); and
- [Medical Innovation](#).

We commend CMS for the continued focus on health equity that is included in the 2023 PFS. Our specific comments are included below.

### **Payment for Medicare Telehealth Services**

We appreciate that the proposed rule includes implementation provisions of the Consolidated Appropriations Act (CAA) of 2021. The CAA allowed continued flexibilities in telehealth coverage for 151 days past the end of the COVID Public Health Emergency (PHE). The pandemic drove increased utilization of telehealth and provided learnings on how it can be utilized to deliver high-quality, convenient, patient-centered care to many. While we appreciate the extension that was included in the CAA and the provisions to implement the extension in this rule, we will continue to work to create a sustainable model – with appropriate patient safeguards – to ensure telehealth is equitably available when appropriate. Telehealth should be an option for patients and providers, when preferred and clinically appropriate, that does not supplant in-person care. In addition, payment policies, including cost-sharing requirements, and provider networks must still support access and in-person availability of providers when appropriate.

Telehealth services should be equitably available through easily usable technologies that are accessible to people with disabilities, with limited English proficiency, and limited technology. The option of audio-only communication is especially important for rural and low-income populations, as many of these patients lack high-speed internet access. However, audio-only care should be held to a standard that assures it is equivalent to telehealth visits. Billing should also reflect the difference between a short phone consultation and an official audio-only telehealth visit.

### **Medicare Shared Savings Program**

The NHC commends CMS for the initiatives in the proposed rule to help advance equity for those receiving care through Accountable Care Organizations (ACOs).

The proposed advanced investment payment program will help build out ACOs in underserved areas and for underserved communities. It is particularly important that these funds are available for ACOs to address social drivers of health. Shared savings models can incentivize attention to social drivers of health by creating value for preventative and social services. In fact, a [Health Affairs 2020 study](#) found that 95 percent of 22 ACOs surveyed were working to address transportation needs, 86 percent were working to address food insecurity, and 77 percent were working to address housing instability among their patients. If these advanced payments can help this model reach more underserved individuals and areas, that will increase access to social services.

The health equity quality score adjustment will also help drive more care to underserved individuals and areas. By incentivizing ACOs to proactively seek to serve more marginalized individuals, it will increase health equity. However, we urge CMS to assure

that this adjustment is not used to conceal overall quality shortcomings. Implementation of this adjustment must be carefully monitored. We also support including screenings for social drivers of health and the “screen positivity rate for social drivers of health” in future measures development.

### **Patient Access to Health Information Measure—Request for Information**

While the use of portals to share and access health information has been a positive tool for patients taking control of their health and health information, there is more that can be done to improve usability. Therefore, the questions asked in this RFI are critical. There are several points raised that are important to patients in the RFI. For instance, patients being able to add information to their portal is an important step in allowing patients control. Such features would allow patients to share information with their doctors, aid in co-development of care plans and care coordination, participate in registries, track reactions and care experiences, and provide feedback on care decisions. While there needs to be assurances that doctor-provided information is not altered, adding records from other providers and feedback would improve quality of care.

The RFI also asks how CMS or HHS can facilitate individuals' ability to access all their health information in one place/portal. This is a common patient complaint and one that should be addressed. While portals are all designed differently, many are using the same back-end data/electronic health records to populate the portal. We would encourage CMS to consider convening thought-leaders to explore the barriers and opportunities to information sharing between portals so whatever portal a patient enters, their individual health information is populated based on unique identifiers while still assuring safety and privacy.

### **Incorporating Health Equity into Public Reporting**

In this RFI, CMS asks about information to include in its compare tools to help drive health equity. The first question is whether information about translation and language services should be available, including sign language. This information would be valuable to patients and help increase health equity. Information not only about what other languages are available in an office, but also about tools a provider might use to enable communication like virtual translators, will help patients seek out providers that will enable the best care for them. In addition, we would encourage the compare tools to include information about accessibility of facilities and equipment and other accommodations available for people with disabilities.

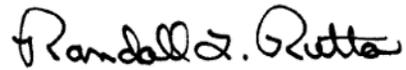
### **Coverage of Monoclonal Antibodies**

The NHC appreciates that CMS is proposing to treat COVID monoclonal antibody products used as pre-exposure prophylaxis to be covered permanently as a Part B vaccine, and thus, with no patient cost sharing. This will significantly impact immunocompromised patients who may not be eligible candidates for COVID-19 vaccines. In addition, this coverage without cost sharing will assist in increasing more equitable access to these important products.

## Conclusion

The NHC appreciates the opportunity to provide input into the 2023 PFS. Please do not hesitate to contact Eric Gascho, Senior Vice President of Policy and Government Affairs, if you or your staff would like to discuss these issues in greater detail. He is reachable via e-mail at [egascho@nhcouncil.org](mailto:egascho@nhcouncil.org).

Sincerely,

A handwritten signature in black ink that reads "Randall L. Rutta". The signature is written in a cursive style with a large initial 'R'.

Randall L. Rutta  
Chief Executive Officer