

September 09, 2021

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-1816

Submitted electronically to www.regulations.gov

RE: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model; Request for Information on Rural Emergency Hospitals. [CMS–1753–P]

Dear Administrator LaSure:

The American Nurses Association (ANA) appreciates the opportunity to provide comments on the proposed rule for the calendar year (CY) 2022 Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems (OPPS/ASC) and Quality Reporting Programs. ANA appreciates the Centers for Medicare & Medicaid Services' (CMS') continued focus on providing regulatory support and relief as the nation's health care delivery system continues to respond to the COVID-19 public health emergency (PHE). The association also welcomes the agency's request for information regarding rural emergency hospitals (REHs) and continued focus on health equity.

As CMS works to finalize this rule, ANA urges the agency to:

- 1. Make permanent temporary waivers granted for COVID-19 PHE response,**
- 2. Not finalize reporting requirements on vaccination data among health care personnel (HCP),**
- 3. Work closely with nurses to identify and implement reporting requirements that adequately assess areas of improvement to achieve health equity in the nation's health care delivery system, and**
- 4. Reflect the value of nursing services in any payment provisions related to REHs.**

ANA appreciates CMS' thoughtful consideration of our comments.

- 1. CMS must make permanent temporary flexibilities granted for COVID-19 PHE response.**

ANA appreciates CMS' flexibility and continued openness to waiving regulatory requirements in response to the COVID-19 PHE. One of the most significant areas of flexibility has been expanded telehealth, allowing many beneficiaries to gain or maintain access during the pandemic. Telehealth expansion during the PHE has created needed capacity for nurses, including advanced practice registered nurses (APRNs) that provide high-quality care to and care coordination for patients, in the face of COVID-19 surges and worsening provider shortages in rural and other underserved areas.

ANA has long supported the nurses' role in the use of telehealth technologies to provide quality care to beneficiaries. Registered Nurses (RNs) and APRNs are frequently the sole providers for many communities across the country. We recognize and share CMS' perspective that covering telehealth

technologies require consideration of provider-patient relationships, equitable access to care, and safety. We continue to stress the importance of access to providers in both rural and urban communities, especially for mental health and behavioral health care services. Mental and behavioral health care services provided via telehealth have been especially critical during the pandemic, which has greatly impacted patients and clinicians across the country. We also encourage the agency to continue to defer to providers and practitioners' clinical judgment to determine supervision of services provided through virtual platforms.

CMS rightly expanded flexibilities in the Medicare program related to telehealth under PHE waiver authority. However, these flexibilities are temporary and vital telehealth services will be limited when the PHE is no longer in effect. Yet, for beneficiaries and providers alike, certainty of payment and coverage will still be key to access and quality. CMS must prioritize continuity of coverage and payment parity for those telehealth services that improve access to equitable and quality care. **ANA urges CMS to make telehealth flexibilities granted in response to the COVID-19 PHE permanent.**

2. CMS must not finalize reporting requirements on vaccination data among HCP.

CMS proposes to collect COVID-19 vaccination data on HCP who work at the hospital at least one day during the reporting period beginning January 1, 2022. This proposal for adoption of this measure was included in nearly all other Medicare quality reporting programs published to date. However, the measure the agency is proposing has not been fully endorsed by the National Quality Forum (NQF). For quality measurement purposes, this measure is referred to as MUC20-0044.

ANA opposes requiring reporting COVID-19 vaccination rates for HCP as part of the Outpatient Quality Reporting (OQR) Program for payment purposes. We support and acknowledge the value of this information for public health and educational purposes. However, we believe it would not be appropriate at this time to report publicly on MUC20-044 for the purposes of assessing quality performance. ANA is concerned that reporting this information for payment purposes could create incentives for hospital employers to coerce and intimidate HCP who decline the vaccine. ANA holds that all HCP must get vaccinated but cannot endorse addressing vaccine hesitancy by such means. Further, it is not clear how COVID-19 vaccinations will be financed in the future, and whether HCP will be required to pay out of pocket for vaccines and boosters. **At this time, ANA urges CMS to reject requirements to report on the MUC20-0044 in the OQR in the final OPPTS/ASC rule.**

3. CMS Must Work with Nurses on Reporting Measures and Subsequent Work to Address Health Equity.

CMS is seeking feedback on changes to the OQR that will enable comprehensive and actionable reporting of health disparities. ANA supports the agency's efforts to address the important issue of closing the health equity gap. Registered nurses, in addition to providing quality care to patients, often serve as advocates for their patients and are best positioned to identify factors that could result in inequitable health outcomes. Nurses also reflect the people and communities they serve—allowing them to recognize the challenges faced by their patients and ensure that their patients receive culturally competent, equitable health care services.

Nurses are also leaders in implementing processes that further quality patient care and highlight existing gaps in care delivery, leading to measurable improvements. As the agency looks to identify areas in care

delivery that result in or exacerbate health disparities, we encourage CMS to work with nurses on which reporting measures and other patient demographic information should be captured. For example, the agency could consider incorporating measures that capture socio-demographic factors, such as food insecurity. Other reported measures could include identifying barriers in connected vulnerable patients to needed services in other health care settings or in the community that are critical in ensuring equitable health outcomes, such as stable, supportive housing post-discharge. Collecting this type of information will allow for a more complete assessment of existing issues and factors leading to inequitable care delivery and then work toward a holistic approach to closing the health equity gap. **As such, we encourage CMS to leverage the important role of the nurse in identifying and capturing measures to address health equity.**

4. CMS must reflect the value of nursing services in any payment provisions related to REHs.

CMS is requesting information regarding REHs, a Medicare provider type designation included in the Consolidated Appropriations Act of 2021.¹ ANA recognizes that these providers are key to ensuring patient access to critical emergency and other outpatient health care services in rural areas. As CMS determines payment provisions, we urge the agency to reflect the value of nursing services, ensuring payment equity for nursing services provided to patients.

The COVID-19 pandemic response has made clear that APRNs and registered nurses (RNs) are indispensable to providing the care that patients need now and in the future. For instance, APRNs are a significant source of primary care, especially in rural and underserved areas. Further, RNs are responsible for a wide array of direct care and care coordination services in community settings as well as hospitals and long-term care facilities. These health care services are key in ensuring access to care, a critical aspect of addressing health inequity. However, there must be parity in how these vital services are reimbursed.

Recognition through appropriate payment for nursing services is critical in ensuring a resilient nursing workforce ready and able to meet future needs. It is long overdue for nursing services to be separated from “room and board,” as currently considered by the Medicare program. Nurses provide vital services to patients across the care continuum and the health care delivery system must recognize their critical role through appropriate reimbursement. **ANA urges CMS to ensure payment equity for nursing services provided to patients as it determines payment provisions for REHs.**

ANA is the premier organization representing the interests of the nation’s 4.3 million RNs, through its state and constituent member associations, organizational affiliates, and individual members. ANA members also include the four APRNs: NPs, clinical nurse specialists (CNSs), certified nurse-midwives (CNMs), and certified registered nurse anesthetists (CRNAs). ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. RNs serve in multiple direct care, care coordination, and administration leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care, and provide advice and emotional support to patients and their family members.

¹86 Fed. Reg. 42022 (August 4, 2021)

ANA appreciates the opportunity to submit these comments and looks forward to continued engagement with CMS. Please contact Ingrida Lusic, Vice President of Policy and Government Affairs at (301) 628-5081 or Ingrid.Lusic@ana.org, with any questions.

Sincerely,



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Chief Nursing Officer / EVP

cc: Ernest Grant, PhD, RN, FAAN, ANA President
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