ALLIANCE for CONNECTED CARE

September 13, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1772-P, P.O. Box 8010
Baltimore, MD 21244-1810

RE: Proposed CY 2023 Medicare Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule (CMS 1772-P)

Dear Administrator Brooks-LaSure,

The Alliance for Connected Care ("the Alliance") welcomes the opportunity to provide comments on the Calendar Year (CY) 2023 Medicare Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System Proposed Rule.

The Alliance is dedicated to creating a statutory and regulatory environment in which patients can receive and health care organizations can deliver and be compensated for providing coordinated, safe, and high-quality care using connected care technology. Our members are leading health care and technology companies form across the spectrum, representing health systems, health payers, and technology innovators. The Alliance works in partnership with an Advisory Board of more than 40 patient and provider groups, including many types of clinician specialty and patient advocacy groups who wish to better utilize the opportunities created by telehealth.

As reflected in the comments below, the Alliance applauds the proposal to ensure the continuation of patient access to mental health services from hospital-based providers after the conclusion of the COVID-19 public health emergency (PHE). The Alliance is committed to leveraging telehealth and remote patient monitoring to improve the quality of care while also lowering costs and improving efficiency, and we believe this extension will help to serve all three of those aims.

OPPS Proposal to Pay for Mental Health Services Furnished Remotely by Hospital Staff

We applaud and support the proposed designation of mental health services furnished to beneficiaries in their home as covered Hospital Outpatient Department (OPD) services. As CMS correctly recognizes, the virtual flexibilities afforded to providers to respond to the COVID-19 PHE revealed the value of telehealth more broadly and it's potential to transform the delivery of care. Behavioral health challenges are reaching a crisis point in rural areas and have only been exacerbated by the pandemic. As more Medicare patients seek care from home and the behavioral health demands in rural areas exceed capacity, this provision allows older adults to access the mental health care they need at home.

We do not believe clinicians must be located at a hospital in order to provide high-quality care. We appreciate the request for comment on whether requiring the hospital clinical staff to be located in the hospital when furnishing the mental health service remotely to the beneficiary in their home would be overly burdensome or disruptive to existing models of care delivery developed during the PHE. In general,

we believe that CMS could allow more flexibility for providers to offer care from a variety of settings in addition to the hospital – including their homes. We recognize that Medicare payment structures are normally heavily dependent on location, making this sort of flexibility difficult, but we believe flexibility would be appropriate in this circumstance – given CMS' proposed payment alignment for these mental health codes. This flexibility would help recruit more practitioners to expand access to mental health practitioners in underserved areas.

As indicated in previous letters, we remain concerned with steps taken by CMS around in-person visit requirements prior to a virtual care appointment. The Alliance and its members strongly believe that an-person requirement constrains telehealth from helping individuals that are homebound, have transportation challenges, live in underserved areas, and more. These issues are expounded for the rural population. It does not constrain those using telehealth for convenience. This creates a pervasion of the Medicare payment system by reducing access for those who need it most, while allowing access for others. We support relationship-based care, and we believe that telehealth is an appropriate means to establish a meaningful relationship with a patient – much like telehealth is merely a different modality to providing care. We urge CMS to implement these restrictions to the minimum extent required by law.

The Alliance applauds CMS for proposing that hospital clinical staff must have the capability to furnish two-way, audio/video services, but may use audio-only communications technology depending on an individual patient's technological limitations, abilities, or preferences. The Alliance believes that audio-only telehealth – particularly for behavioral health – has been a critical tool for many clinicians and patients during COVID-19, especially when considering patients who face barriers to access to care such as broadband, affordability, and other barriers. While we believe that audio-video communication is the preferred modality for most telehealth, we strongly support continued flexibility for audio-only – when clinically appropriate and when meeting the need or request of the patient.

Direct Supervision

The Alliance strongly supports the continued use of direct supervision via telehealth or a range of outpatient services. The option for virtual direct supervision has been proven to be a meaningful tool to maintain teams remotely during a public health emergency. However, this expansion of health system capability is needed for more than just public health emergencies – it is also a meaningful tool to meet health care workforce challenges – both in the delivery of care and to grow the workforce through more flexible academic settings.

Beyond the provisions in the proposed rule, the Alliance continues to broadly support the continued use of direct supervision via telehealth for practitioners unable to bill a service directly to Medicare. Virtual direct supervision through telehealth can support innovative home-based care models, can expand workforce capacity, and will of course have utility in any future outbreak or public health emergency situation. Virtual supervision is crucial to the transformation of our health care system – from one in which patients sit in offices and wait, to one that meets patients and their needs when and where they are. Without virtual supervision, many of the incredible capabilities that our health care system demonstrated since 2020 will return to their pre-pandemic status quo.

It is also remains incredibly important to allow virtual supervision of residents by teaching physicians in the academic medical setting – to allow medical students to learn in the field and directly support disadvantaged populations in both urban and rural settings. It is also important to help ensure areas without medical schools are able to build and support the health care workforce they desperately need.

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The Alliance greatly appreciates the leadership of CMS in working to ensure that seniors are able to realize the benefits of telehealth and remote patient monitoring. We appreciate the opportunity to provide feedback on the CY 2023 Medicare Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System Proposed Rule, and look forward to continuing to work with CMS to increase access to high quality connected care for Medicare beneficiaries. If you have any additional questions, please do not hesitate to contact Chris Adamec at cadamec@connectwithcare.org.

Sincerely,

Krista Drobac

Executive Director