

December 31, 2018

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-4185-P
Mail Stop C4-26-05
7500 Security Blvd
Baltimore, MD 21244-1850

RE: Medicare and Medicaid Programs; Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Program of All-Inclusive Care for the Elderly (PACE), Medicaid Fee-for-Service, and Medicaid Managed Care Programs for Years 2020 and 2021 (83 FR 54982, November 1, 2018).

Dear Administrator Verma:

The American Association of Nurse Practitioners (AANP), representing more than 248,000 nurse practitioners (NPs) in the United States, appreciates the opportunity to provide comment in response to the 2020 and 2021 Medicare Advantage (MA), Medicare Part D, PACE, Medicaid Fee-for-Service, and Medicaid Managed Care programs proposed rule.

NPs are advanced practice registered nurses who are prepared at the masters or doctoral level to provide primary, acute, chronic and specialty care to patients of all ages and walks of life. Daily practice includes: assessment; ordering, performing, supervising and interpreting diagnostic and laboratory tests; making diagnoses; initiating and managing treatment including prescribing medication and non-pharmacologic treatments; coordinating care; counseling; and educating patients and their families and communities. NPs practice in nearly every health care setting including clinics, hospitals, Veterans Affairs and Indian Health Care facilities, emergency rooms, urgent care sites, private physician or NP practices (both managed and owned by NPs), nursing homes, schools, colleges, retail clinics, public health departments, nurse managed clinics, homeless clinics, and home health. NPs hold prescriptive authority in all 50 states and the District of Columbia. It is important to note that 86.6% of NPs are certified in primary care, the majority of whom see Medicare and Medicaid patients. NPs complete more than one billion patient visits annually.

Requirements for Medicare Advantage Plans Offering Additional Telehealth Benefits

We agree with the implementation of additional telehealth benefits for beneficiaries enrolled in MA plans. AANP has been supportive of increasing access to telehealth services in order to facilitate access to medically necessary care, particularly among rural and underserved populations. CMS requested feedback on whether the agency should impose additional requirements to already existing regulations. We do not believe that CMS should impose any additional requirements on providers, and that all providers should be able to order and perform telehealth services to the full extent under the applicable State law.

Dual Eligible Special Needs Plans (D-SNP) Provisions

Review of Integrated Organizations Determinations: We agree with CMS regarding the importance of ensuring that individuals who review appeals, grievances and prior authorization requests have the appropriate expertise to conduct these reviews.¹ We believe that peer review is important to ensuring that these processes are conducted in a manner that best serves the patient. As a component of these regulations, it is important that CMS ensure that review organizations are appropriately staffed with peers of all health care professionals, including nurse practitioners.

*Continuation of Benefits Pending Appeal*²: We agree with CMS that all Part A and B benefits should be continued pending appeal and that this is the correct statutory interpretation related to continuation of benefits. We also agree with CMS that integrated plans and state agencies should be prohibited from recovering the costs of services provided while the plan reconsideration or Medicaid state fair hearing process is pending.

*Integrated Reconsiderations*³: We thank CMS for working to align the appeals and grievance processes for D-SNPs with Medicaid Managed Care Plans and Medicare Advantage Plans. It is important that CMS use provider-neutral language in all rulemaking regarding the appeals and grievance processes across all three plan types. This is consistent with the statutory language in the Bipartisan Budget Act of 2018 requiring CMS to adopt the provisions most protective of the enrollee, and the Medicaid Managed Care appeals and grievance regulations which use provider-neutral language. Recognizing that NPs and other health care professionals serve as the treating providers for D-SNP beneficiaries, it is important that CMS use the term “provider” to prevent confusion and best protect beneficiaries. Using the term “provider” in these regulations creates consistency throughout the regulatory framework and ensures that the provider with the most detailed knowledge of the patient’s condition, such as their NP, is authorized to appeal on their behalf.

We thank you for the opportunity to comment on this proposed rule. We look forward to an ongoing dialogue to ensure NPs and their patients are equal participants in all Medicare and Medicaid programs. Should you have comments or questions, please direct them to MaryAnne Sapio, V.P. Federal Government Affairs, msapio@aanp.org, 703-740-2529.

Sincerely,

David Hebert
Chief Executive Officer

¹ 83 FR 54982, 55006.

² 83 FR 54982, 55008.

³ 83 FR 54982, 55010.