

February 19, 2019

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services (HHS)
Attn: CMS-9926-P
P.O. Box 8013
Baltimore, MD 21244-8013

RE: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2020 (84 FR 227, January 24, 2019).

Dear Administrator Verma:

The American Association of Nurse Practitioners (AANP), representing more than 270,000 nurse practitioners (NPs) in the United States, appreciates the opportunity to provide comment in response to the HHS Notice of Benefit and Payment Parameters for 2020.

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 87.1% 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.

In this proposed rule, CMS proposed changes to rules governing American Health Benefit Exchanges. Below are our comments on provisions related to cost-sharing, mid-year formulary changes and non-discrimination provisions. We look forward to continuing to work with CMS to improve the performance of the health care marketplace.

Provisions Related to Cost-Sharing

We are concerned that the CMS Office of the Actuary estimates that the proposed changes related to cost-sharing will increase premiums and decrease enrollment in exchange plans. For those reasons we do not support this proposal. AANP has long stood by the principle that patients should have access to affordable, robust health care coverage. Plan changes that increase the cost to beneficiaries, thereby decreasing enrollment, are contrary to these positions. We encourage CMS to implement changes that decrease the cost of care for patients and increase coverage in qualified health plans.

Mid-Year Formulary Changes

CMS proposes to allow issuers in the individual, small group, and large group markets to add generic equivalents of prescription drugs to a formulary when they become available on the market and remove or re-tier the equivalent brand name drug. AANP shares the goal of lowering prescription drug prices and looks forward to continued work with CMS on this goal. However, we are concerned that this new requirement could result in patient's losing access to medications that are appropriately managing their illnesses.

If CMS does move forward with this proposal we believe there are several steps that must be taken to protect the health of the patient. First, CMS proposed a 60-day notification timeframe and asked whether a longer timeframe such as 90 or 120 days would be more appropriate. The longer timeframe of 120 days would be the most appropriate, as the shorter timeframe burdens patients and providers given the volume of information they receive from health plans. Second, we recommend that during the plan year the issuer be authorized to re-tier the medication, but not remove it from the formulary entirely. This would encourage the use of generics without completely depriving the patient of access to medication that has been effectively managing their condition. Third, the proposal stated that plan enrollees would be notified in writing. We request that notification also be made to the patient's prescriber. This lessens the chance that the formulary change would be missed. Fourth, there must be a robust exceptions and appeals process, and CMS should mandate that issuers provide coverage of the medication while the appeals process is ongoing. Fifth, CMS should mandate that the patient cost-sharing of the generic drug not be higher than the drug it is replacing on the formulary since lowering drug costs is the purpose of the proposal.

Prohibition on Discrimination

We agree with the clarification from CMS that medication-assisted treatment (MAT) drugs should not be excluded from the treatment of opioid use disorder when the same drugs are covered for other medically necessary purposes. Since the passage of the Comprehensive Addiction and Recovery Act of 2015, NPs have been authorized to obtain MAT waivers. As of January, over 7,000 NPs have done so. NPs are committed to working with CMS to address the opioid crisis and continue to improve access to this medically necessary treatment.

We thank you for the opportunity to comment on this proposed rule. 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