

October 5, 2020

Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8010
7500 Security Boulevard
Baltimore, MD 21244

RE: Medicare Program: CY 2021 Revisions to Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; etc; CMS-1734-P.

Dear Administrator Verma:

The undersigned organizations representing Advanced Practice Registered Nurses (APRNs) and advanced practice nursing education appreciate the opportunity to provide comment on the 2021 Medicare Physician Fee Schedule proposed rule. We appreciate actions that CMS has taken to reduce regulatory burdens on APRNs and their patients and look forward to continued work with CMS to improve both the efficiency of our health care workforce and access to care for Medicare patients.

The APRN Workgroup is comprised of organizations representing Certified Nurse-Midwives (CNMs), Clinical Nurse Specialists (CNSs), Certified Registered Nurse Anesthetists (CRNAs), and Nurse Practitioners (NPs). As of 2018, over 182,000 APRNs were treating Medicare patients, making it essential that CMS remove barriers to care for APRNs and their patients. In every setting and region, for every population, particularly among the rural and medically underserved, America's growing numbers of highly educated APRNs advance healthcare access and quality improvement in the United States and promote cost-effective healthcare delivery.

Supervision of Diagnostic Tests by Certain NPPs

In this proposed rule, CMS is proposing to cover diagnostic tests, including psychological and neuropsychological tests, that are supervised by NPs, CNSs, CNMs and physician assistants that are authorized by state law. CMS has implemented this policy on a temporary basis during the Public Health Emergency and it has been essential to increasing much needed testing capacity. This proposal is consistent with Section 5 of the President's Executive Order (EO) #13890 on "Protecting and Improving Medicare for Our Nation's Seniors." We applaud the continued work of CMS to remove federal barriers to practice placed on APRNs and support this proposal. While we support this proposal, we also recommend that CMS include CRNAs in the group of clinicians authorized to supervise diagnostic tests. This proposal, and the inclusion of CRNAs, is consistent with the EO and will enable practices where APRNs are supervising other health care personnel to increase their testing capacity and maximize the utility of their clinical workforce.

Telehealth Proposals

Telehealth and remote patient monitoring services have been essential to health care delivery for APRNs and their patients during this pandemic. We support the proposed expansion of the Medicare Telehealth Services List and the continued expansion of APRN's use of remote patient monitoring services. Additionally, coverage of telephone-only visits has been important to our clinicians and their patients who difficulty accessing and utilizing audio-video technology. An April 2020 poll by the Kaiser Family Foundation found that 32 percent of the adults aged 65 and older did not have access to computer,

smart phone or tablet with internet access at home.¹ We encourage CMS to continue to evaluate ways to cover these, or similar services, after the end of the Public Health Emergency.

Executive Order 13890 on “Protecting and Improving Medicare for Our Nation’s Seniors”

We appreciate the steps that CMS has taken to implement section 5 of EO 13890 on “Protecting and Improving Medicare for Our Nation’s Seniors” and encourage CMS to continue to remove Medicare barriers placed on APRNs and their patients that are more stringent than Federal and State law require.

As CMS continues to evaluate federal barriers that prevent providers from practicing to the top of their license, we want to bring to your attention several specific regulatory barriers to the practice of APRNs that impair patient access to health care, impede patient choice, and raise health care costs. Our proposals below are consistent with the EO, the CMS 2018 Rural Health Strategy,² and the Administration’s report on “Reforming America’s Healthcare System Through Choice and Competition.”³ In the report, the Administration recommended reforming scope of practice laws to “allow all healthcare providers to practice to the top of their license, utilizing their full skill set.”⁴ In making this recommendation, the report highlighted economic analysis which showed that authorizing APRNs to practice to the top of their license would lower health care costs and increase access to care, particularly in rural and underserved communities.⁵ This report builds off years of analysis from organizations such as the Federal Trade Commission⁶ and the National Academy of Medicine (formerly the Institute of Medicine)⁷ showing that restrictive scope of practice laws impede competition and drive up health care costs. Both the American Enterprise Institute and the Brookings Institution also released reports in 2018 that recommended removing restrictions that prevent APRNs from practicing to the top of their license.^{8 9} Accordingly, we offer the following recommendations:

- Remove costly and unnecessary physician certification, order and referral requirements;
- Remove costly and unnecessary physician supervision requirements;¹⁰ and
- Update facility Conditions of Participation¹¹ to authorize APRNs to practice to the full scope of their education and clinical training.

In addition, section 5(c) of the EO directs the Secretary to propose reforms including “conducting a comprehensive review of regulatory policies that create disparities in reimbursement between physicians and non-physician practitioners and proposing a regulation that would, to the extent allowed by law, ensure that items and services provided by clinicians, including physicians, physician assistants, and nurse practitioners, are appropriately reimbursed in accordance with the work performed rather than the clinician’s occupation.”

¹ <https://www.kff.org/policy-watch/possibilities-and-limits-of-telehealth-for-older-adults-during-the-covid-19-emergency/>

² <https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Rural-Strategy-2018.pdf>, at page 4.

³ <https://www.hhs.gov/sites/default/files/Reforming-Americas-Healthcare-System-Through-Choice-and-Competition.pdf>

⁴ *Ibid*, at page 36.

⁵ *Ibid*, at page 35.

⁶ <https://www.aanp.org/advocacy/advocacy-resource/ftc-advocacy>.

⁷ Institute of Medicine. (2011). *The Future of Nursing: Leading change, advancing health*. Washington, DC: The National Academies Press.

⁸ <https://www.aei.org/wp-content/uploads/2018/09/Nurse-practitioners.pdf>.

⁹ https://www.brookings.edu/wp-content/uploads/2018/06/AM_Web_20190122.pdf.

¹⁰ See 42 CFR §§ 482.52, 485.639, 416.42.

¹¹ See 42 CFR §§ 482.52, 485.639, 416.42.

The COVID-19 pandemic has had a substantial financial impact on clinician practices across the country and this is exacerbated for APRNs, many of whom are reimbursed at 85% of the Medicare physician fee schedule. We appreciate actions that HHS has taken to support the financial viability of practices during this pandemic, including advanced Medicare payments and removing barriers to telehealth. We encourage CMS to continue to move forward on implementing section 5(c) of the EO to remove payment disparities on APRNs which will provide needed financial support and flexibility to practices. We also encourage CMS to work with Congress to waive the budget neutrality requirement for FY 2021 due to the impact that reimbursement cuts for certain services could impact health care professionals at this trying economic time.

We thank you for the opportunity to comment on this proposed rule and your support of APRNs. Should you have comments or questions, please direct them to MaryAnne Sapio, V.P. Federal Government Affairs, American Association of Nurse Practitioners, msapio@aanp.org.

Sincerely,

American Association of Colleges of Nursing
American Association of Nurse Anesthetists
American Association of Nurse Practitioners
American College of Nurse-Midwives
American Nurses Association
American Organization of Nursing Leadership
National Association of Nurse Practitioners in Women's Health
National Association of Pediatric Nurse Practitioners
National League for Nursing
National Organization of Nurse Practitioner Faculties