

March 24, 2020

Centers for Medicare and Medicaid Services  
Office of Strategic Operations and Regulatory Affairs  
Division of Regulations Development  
Attn: CMS Desk Officer  
OMB Control Number 0938-0022  
Room C4-26-05  
7500 Security Blvd  
Baltimore, MD 21244-1850

**RE: COMMENTS REGARDING REVISED HOME HEALTH AGENCY COST REPORT CMS FORM 1728-19 AND RELATED MATTERS**

The Ohio Council for Home Care and Hospice (OCHCH) is a state based trade association representing more than 600 providers of home health, palliative care, and hospice community-based services. We appreciate the opportunity to submit comments regarding the above-entitled proposed rule.

OCHCH is supporting the comments developed by Dave Macke, VonLehman CPA and Advisory Firm and the National Association of Home Care and Hospice's ("NAHC") Home Care and Hospice Financial Managers Association ("HHFMA") as stated in this document.

The following comments are provided regarding the proposed Form CMS-1728-19, and proposed instructions for completion of the Form CMS-1728-19. These comments are in response to the second 30 day comment period. We commend CMS on its efforts to make cost reporting by all provider types as uncomplicated as possible while maintaining the goal that it produce information necessary to meet CMS's obligations by regulation and for use in determining the costs incurred to render Medicare covered services. The following comments are largely based on feedback from a national group of leading cost report experts, many of whom are members of the National Association of Home Care and Hospice's ("NAHC") Home Care and Hospice Financial Managers Association ("HHFMA"). This group has extensive experience in preparing many cost reports for providers across the country including freestanding providers, provider-based providers, tax-exempt providers, and proprietary providers.

**EFFECTIVE DATE OF THE NEW COST REPORT FORMS**

The original effective date was for cost reporting periods beginning on or after January 1, 2019. In our original comments, we stated that the effective date should be six months after the finalization of the forms and instructions to allow agencies time to modify their recordkeeping. CMS stated in its' response that they believe that agencies are already capturing all the necessary data. The effective date was modified to be for cost reporting periods beginning on or after July 1, 2019 and ending on or after June 30, 2020. For the most part, home health agencies are not keeping separate track of costs for nursing between RN's and LPN's, therapists and therapy assistants. This has not been a current cost report requirement. This will be further discussed below under Nursing and Therapy Costs.

We still recommend that the effective date be prospective for cost reporting periods beginning on or after the finalization of the new form set to allow agencies proper time to modify their recordkeeping systems.



**CHANGE OF OWNERSHIP / CHOW (Worksheet S-2, Part II, line 1)**

The language of this question was changed from the CMS Form 1728-94 to simply state “Has the HHA changed ownership?”. We believe that this question should be further clarified to state “Has the HHA changed ownership during the current cost reporting period?”. There may be some confusion as to the effective date of the CHOW since cost reports are due to be filed five months after the end of the cost reporting period.,

**VISITS AND CENSUS STATISTICS (Worksheet S-3, Part I, columns 5 and 6)**

CMS clarified that census statistics for number of visits and patients for Medicare and Medicaid MCO patients are to be reported in columns 5 and 6. We commend CMS for this clarification as we believe that it will provide better guidance to cost report preparers and consistency in the reporting of data.

**VISITS AND CENSUS STATISTICS FOR ALL OTHER SERVICES (Worksheet S-3, Part I, line 11, columns 5 and 6)**

This line is used for the reporting of non-like services where the cost is reported in a nonreimbursable cost center. CMS (then HCFA) published a Program Memorandum in 1997 providing guidance on reporting of census statistics and costs for non like kind services. This was PM AB-97-11.60. We recommend that CMS provide more detailed information in the cost report instructions as we have observed a lack of consistent data between Worksheet S-3 and cost on Worksheet A.

**FULL TIME EQUIVALENTS / FTE's (Worksheet S-3, Part II)**

There are several issues with this worksheet. While we believe that all cost report data is important, we have seen cost reports where the data reported in this Worksheet could not possibly be accurate. In fact, if this Worksheet was not completed and reported as all zeros, there are no Level I or Level II edit errors. The cross match of FTE's and cost on Worksheet A does not always match by cost center. Under current cost reporting, this worksheet does not have any impact on the cost data in the cost report.

Line 21 is for FTE's for Certified Nursing Assistants and line 33 is for Home Health Aides. Can CMS clarify the difference between these two lines? On Worksheet A, there is a cost center for Home Health Aides but not Certified Nursing Assistants. Also, there are lines here for Supervisors for all direct care disciplines but there are no cost centers on Worksheet A for Supervisors. Does Nursing Supervisors match up to Nursing Administration (Worksheet A, line 7)?

Does the FTE's reported on this worksheet need to match up to total paid hours on Worksheet S-3, Part V? How are FTE's for non like-kind services to be reported on this Worksheet? Should they be separately identified or combined with skilled services?

**OCCUPATIONAL WAGE DATA (Worksheet S-3, Part V)**

There is inconsistent reporting of data between Worksheets S-3, Part II, Worksheet S-3, Part V and Worksheet A. The same line descriptions do not flow throughout all three Worksheets. Is the cost reported on Worksheet S-3, Part V just for the skilled disciplines or does it include non-like services?

There are no lines for Medical Social Services and Home Health Aides.

What is included on lines 14 and 28 - Other Medical Staff? Is this supposed to be non like kind costs?



Home Health Agencies may not have complete data for total paid hours. In this industry, it is very common to compensate direct care employees on a per visit basis. Additionally outside contractors are generally paid per visit. Time records are not available. CMS stated that they believe this information is available based on CR9736 (response #8). This CR only required separate G Codes for RN and LPN visits. We agree that separate G codes are used for visits for Nursing (RNs and LPNs), Physical Therapy and Occupational Therapy (Therapists and Therapy Assistants), but this does not address timekeeping requirements for total paid hours. Outside Contractors bill the agency a per visit amount, not hours.

We are very concerned about the quality of data industry wide that will be reported on this Worksheet that will compute an Average Hourly Wage for each Occupational Category due to the lack of complete guidance and the types of compensation methods in the home health industry.

We believe that CMS needs to provide clear guidance on the proper reporting of data from Worksheet S-3, Part II, Worksheet S-3, Part V, and Worksheet A.

#### **NURSING SUPERVISOR / NURSING ADMINISTRATION (Worksheet S-3, Part V & Worksheet A)**

Nursing Administration is a new cost center on Worksheet A, line 7. Is this cost center supposed to line up with Nursing Supervisor on Worksheet S-3, Part II, line 18 and Worksheet S-3, Part V, line 1? This should be clarified.

#### **MEDICAL RECORDS DIRECT COST (Worksheet A, line column 8)**

Can CMS clarify what costs should be recorded in this cost center? Many agencies use an Electronic Medical Record system and the charting and documentation is completed at the time of service by the caregiver. There may be some coding time that would be completed in the office by a staff person not providing visits. This cost center was added to accommodate a HHA based Hospice. A separate cost center may not exist for a home health agency only.

#### **NURSING AND THERAPY DIRECT COSTS (Worksheet A, lines 16 to 21)**

It is stated in response #8 from CMS that it is believed that home health agencies are separating costs in their financial statements for these lines between RN and LPN, and Therapists and Therapy Assistants. See comment above regarding Worksheet S-3, Part V. CMS stated that this is required based on CR 9736 that was implemented January 3, 2017. This Change Request did not address the separation of cost on the financial statements. This Change Request addressed separate G Codes for billing between RNs and LPNs. Many agencies do not separate the cost on their financial statements in this manner as it has never been required for cost reporting purposes. Some agencies may be segregating cost on their financial statements but this is probably the exception but not the rule.

#### **MEDICAL SUPPLIES DIRECT COST (Worksheet A, line 25)**

This cost center is intended to capture the “cost of billable medical supplies”. The line description says “Medical Supplies (see instructions)”. In reading the instructions, it provides some guidance on the cost separation of billable and non-billable medical supplies. The Hospital and Skilled Nursing Facility (SNF) cost reports actually use the title on this cost center as “Medical Supplies Charged to Patients”.

We recommend that CMS change the title of this cost center consistent with Hospitals and SNF’s. We believe that this may provide better guidance to cost report preparers as we believe that this cost center includes cost for non-billable medical supplies that should be in the Administrative and General cost center in some cost reports.



**TELEHEALTH DIRECT COST (Worksheet A, line 47)**

We agree with CMS with moving this cost center from line 30 to line 47.

**ADVERTISING DIRECT COST (Worksheet A, line 48)**

This is a new cost center that CMS has proposed on the revised cost report forms. There is also a line 11 on Worksheet A-8 that provides for cost offset of Advertising costs. In response #23 by CMS to the original comments, CMS has provided some guidance as to when a nonreimbursable cost center is needed versus a cost offset. CMS has referenced PRM 15-1, section 2328 for guidance. PRM 15-1, section 2302.8 provides for a definition of a cost center. By having a cost center on Worksheet A and a line on Worksheet A-8, there may be confusion as to how to handle this.

We recommend that CMS provide guidance in this chapter of the cost report instructions on how to handle this cost.

**FUNDRAISING DIRECT COST (Worksheet A, line 49)**

While not specifically addressed in the instructions and responses to comments by CMS, we believe the same concept applies to Fundraising costs as to a nonreimbursable cost center versus a cost offset.

**VOLUNTEER SERVICE COSTS (Worksheet A)**

Typically Hospice providers incur Volunteer Service Costs as Volunteer Services is a required Activity under the Conditions of Participation (COP's). On Worksheet O, these costs are included on Worksheet O, line 13 (an allowable overhead cost). In CMS response #24 to the original comments, it was suggested that in the case of a HHA Based Hospice, that this cost be included on Worksheet A, line 57 – Hospice rather than line 6 Admin & General. To the extent that Volunteer Services Coordinator provides services to the HHA, then those costs should be reclassified to the HHA. This should be clarified in the instructions as some agencies may inappropriately include all of this cost in the Administrative and General cost center since it is not a direct patient care cost.

**HOME OFFICE COSTS (Worksheet A-8-1)**

In response #12 to the original comments, CMS provided some clarification as to when a home office provide number is needed as opposed to simply a related party transaction without a home office cost statement. In both situations, both of these transactions would be reported on Worksheet A-8-1 as related party costs. We appreciate the comments by CMS but would recommend that this language be incorporated in CMS reimbursement manuals that would provide better guidance to preparers. (PRM 15-1 and 15-2). We also appreciate CMS response #11 regarding the process to provide a more uniform and transparent process to obtain a home office provider number.



### **CAPITAL RELATED COSTS – MOVABLE EQUIPMENT (Worksheet B-1)**

The instructions for the statistical basis the CMS recommends is dollar value, but allows for an alternative basis of square footage. In cost reports up to this point in time, many agencies have been using square footage which has been an acceptable statistical basis. Can CMS clarify that if an agency has been using square footage that they can continue the use square footage without getting approval going forward? Also, can CMS clarify the definition of dollar value? It is our understanding that dollar value is the actual depreciation expense for equipment that agrees to the financial statements. We have observed providers have used the actual acquisition cost of equipment assets in use. This is incorrect in that depreciation expense will be allocated to fully depreciated assets. We recommend the CMS provide a clear definition of dollar value so that those providers that use this basis will have a clear understanding of what to report and that cost reports will be more accurate.

### **REMOTE PATIENT MONITORING ALLOCATION STATISTICS (Worksheet B-1, column 5)**

The recommended statistic by CMS is Time Spent. Can CMS please clarify how to capture Time Spent? Time Spent would be difficult to capture to allocate to the visiting disciplines when a patient receives services from multiple disciplines. Following is the definition of this cost center for costs on Worksheet A from section 4709 of the draft cost report instructions.

**“If remote patient monitoring is used by the home health agency to augment the care planning process, the costs of the equipment, set-up, and service related to this system are allowable only as administrative costs.”**

We recommend a potential alternative statistical basis such as “accumulated costs”.

### **MEDICAL RECORDS ALLOCATION STATISTICS (Worksheet B-1, column 8)**

The recommended statistic by CMS is Time Spent. Can CMS please clarify how to capture Time Spent? As noted above, many agencies use an EMR system where the charting and documentation is completed at the point of service. If there is any direct costs that can be identified as Medical Records, it would be difficult to measure Time Spent when a patient receives services from more than one service discipline.

We recommend a potential alternative statistical basis such as “number of visits”.

### **MEDICARE VISIT STATISTICS (Worksheet C, Part I)**

For cost reporting purposes, the number of Medicare visits on Worksheet C, Part I matches Worksheet S-3, Part IV. This is based on completed episode data. Worksheet S-3, Part IV comes from the PS&R report. There is a disconnect here in that Worksheet C lines up with Worksheet S-3, Part I which segregates RN / LPN, and Therapists and Therapy Assistants but those are not the visit totals that are supposed to flow to Worksheet C. (Worksheet S-3, Part IV).

### **COST OF ADMINISTERING VACCINES (Worksheet C, Part II)**

On CMS Form 1728-94, there is a cost center on Worksheet C, line 16.20 called “Cost of Administering Vaccines”. This cost center would line up with Worksheet A, line 27 on the new cost report forms. There is no cost center on the new forms to capture the charge / cost data for this activity. This activity is reimbursed on the Hospital OPPS fee schedule and is not cost settled on the cost report. Should this cost center still be included on Worksheet C, Part II? Disposable Devices is still included on line 13.



**PRIMARY PAYER PAYMENTS (Worksheet D, Part II)**

This settlement item was moved from Worksheet D, Part I to Part II, line 21. This makes more sense in that Part I relates to the Medicare cost of vaccines. We agree with CMS for moving this line item.

**HOSPICE COST CENTERS (Worksheet O Series)**

Normally overhead costs for home health and hospice would be combined in the General Service Cost Centers section, Worksheet A, lines 1 to 9 and allocated on the overhead cost stepdown on Worksheet B and Worksheet B-1. In the case of HHA based Hospice, this is not always practical. CMS gave the example of Volunteer Service Coordination that should be reported on Worksheet A, line 57 – Hospice. We assume that other cost centers that are probably Hospice only should be reported on line 57 as well, such as Laundry, Housekeeping, Dietary, Pharmacy, etc. In the draft cost report instructions for Worksheet A (Section 4709), there is no instructions provided for Line 57 – Hospice.

We recommend that CMS provide a definition for line 57 and identify specifically what expenses should be included in this cost center.

In conclusion, we appreciate the efforts by CMS on revising the Medicare cost report forms for home health agencies. The home health industry is in a state of many changes. We appreciate the efforts put forth to obtain reliable and accurate data. We look forward to working with CMS on further cost report initiatives.

Respectfully Submitted,

Joe Russell, Executive Director

Ohio Council for Home Care & Hospice



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FOR HOME CARE & HOSPICE