Pennsylvania Homecare Association

August 24, 2020

The Honorable Seema Verma, Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1730-P

Re: CMS–1730-P: Medicare and Medicaid Programs; CY 2021 Home Health Prospective Payment System Rate Update; Home Health Quality Reporting Requirements; and Home Infusion Therapy Services Requirements

Dear Administrator Verma,

On behalf of Pennsylvania's home health agencies, thank you for the opportunity to offer comments in response to the Centers for Medicare and Medicaid Services (CMS) proposed rule for CY 2021 Home Health (CMS-1730-P).

The Pennsylvania Homecare Association (PHA) is a statewide membership association whose members provide home health services to thousands of Pennsylvanians every day, enabling chronically ill patients to stay healthy in their own homes and those suffering an acute illness to recover at home among their friends and family. Our members are committed to finding the most effective, efficient, and compliant means to deliver home health care.

It is safe to say that 2020 has been a year like no other. The COVID-19 public health emergency (PHE) has created challenges for many, and we appreciate CMS' partnership and responsiveness to the needs and challenges of Home Health Agencies (HHAs) and others on the healthcare continuum. As you know, in January, HHAs began navigating the first major revision of the payment system in many years; by March, the COVID-19 PHE changed everything. HHAs moved quickly develop procedures for infection control, with limited information and significant personal protective equipment (PPE) shortages. They saw a dramatic decrease in elective surgeries, resulting reductions in post-acute home health care admissions/census, significantly increased costs relating to infection control protocols and PPE, patients/families/facilities refusing services or access, and HHA staff dealing with the added demands of childcare after school closures and enhanced infection control procedures.

HHAs continue to experience increased demands relating to providing patient care during COVID-19, while managing the changes enacted via the CY2020 Finalized Home Health Rule. We appreciate the minimal nature of most changes proposed in the CY2021 Home Health Rule and thank CMS for its sensitivity to the current environment for HHAs.

600 N. 12th Street, Suite 200 • Lemoyne, PA 17043
Toll-Free (800) 382-1211 • Tel (717) 975-9448 • Fax (717) 975-9456
www.pahomecare.org

We respectfully submit the following recommendations for your consideration:

1. PDGM

   Since the implementation of the Patient Driven Groupings Model (PDGM) occurred during a national Public Health Emergency (PHE), current data will not provide accurate information about agency behaviors in response to the revised model and the economic impact. As a result, PHA generally supports CMS' proposal to maintain the established structure of PDGM without substantial modification for CY2021. We do request, however, that CMS restore the use of symptom codes as a patient diagnosis. Practitioners use these codes regularly as the reason for office visits, emergency room utilization and the primary reason for home health care. Other providers are able to use these codes. We ask CMS to permit these codes in the existing model, subject to later refinements, if necessary and appropriate.

   Like other commenters, we would also like to reiterate the significant cost increases resulting from the PHE, including costs for PPE and other infection control measures. The National Association for Home Care & Hospice (NAHC) has estimated that PPE expenditures alone increased per visit costs by approximately $11.50 or nearly 5% of the current base episodic rate during the PHE.

   Recommendations:

   - Restore symptom codes to the list of acceptable diagnoses.
   - Develop a process to modify home health agency (HHA) payment rates during a PHE in an expedited manner, including setting a modified rate for CY2021 to account for costs related to the PHE.

2. Behavioral Adjustments

   In the CY2020 Finalized Home Health Rule, CMS assumed that HHAs would adjust their behaviors to increase reimbursement by modifying diagnosis coding and service utilization. As a result, it adopted a 4.36% reduction in payment to offset these anticipated behaviors. In prior comments, PHA requested CMS not to initiate behavioral adjustments to the payment rate until PDGM data could be collected and evaluated. Even though we only have eight months of data in 2020, it is clear that the assumed behavioral changes have not occurred and that 2020 spending on home health services will not be budget neutral. LUPA rates have not gone down as per CMS expectations, for example, and instead appear to have doubled. As a result, it seems highly likely that CMS will have to reconcile the 2020 payment rates with an upward adjustment to HHAs.

   Recommendations:

   - CMS payment rate adjustments must be based only on data generated by actual practice, rather than assumptions and sparse data or use of generalized assumptions involving providers at large.
   - CMS should institute a partial or full elimination of the 2020 4.36% adjustment, along with an add-on reconciliation payment to achieve budget neutrality for 2020.
   - CMS should eliminate the 4.36% behavior adjustment effective January 1, 2021.

- CMS should make the 2020 data publicly available to allow industry analysis on 2021 rates of payment related to the budget neutrality requirements.

3. Cost Add-on to Reflect Costs Related to the PHE

   Proposed rate adjustments do not adequately account for the costs of PPE and infection control measures resulting from the PHE. As written above, NAHC has estimated that PPE expenditures alone increased per visit costs by approximately $11.50 or nearly 5% of the current base episodic rate during the PHE.

   Recommendation:

   - CMS should include a PPE cost add-on to the 2020 payment episodic and per visit payment rates.

4. Non-Pay Request for Anticipated Payment (RAP) Late Submission Penalty for 2021

   In the CY2020 Home Health Final Rule, CMS finalized requirements for all HHAs to submit a RAP within 5 days from the start of care to establish the home health period of care in the Common Working File, or face a payment reduction until the RAP is submitted. As mentioned above, the PHE and implementation of PDGM have already placed a financial burden on HHAs; this provision will add to that burden, at a time when HHAs are dealing with many unforeseen challenges and costs. With so many competing demands during the PHE, some HHAs have been unable to implement an effective, efficient process to meet RAP requirements.

   Recommendation:

   - CMS should apply the same flexibility it has employed in meeting the demands of the PHE to this provision and wait until at least 3 months after the PHE ends to initiate the implementation of this regulation.

5. Telehealth

   PHA supports the use of telecommunications in the provision of home health services and appreciates CMS' efforts to promote telehealth interventions. We are concerned, however, about the proposed plan of care (POC) requirements. As you know, under the Rule, HHAs would be required to ensure that the POC includes:
   - Any provision of remote patient monitoring or other services furnished via a telecommunications system;
   - Tying such services to the patient-specific needs as identified in the comprehensive assessment; and
   - A description of how the use of such technology will help to achieve the goals outlined on the plan of care.

Without some flexibility in these requirements, we believe that HHAs will be at risk for unreasonable claim denials. The POC requirements, along with CMS' position that telecommunication visits are not reimbursable, could be a deterrent to providing telecommunication technologies to Medicare home health beneficiaries.

It is also not clear whether audio-only visits are included as telecommunications technologies for home health visits. Audio-only visits have been permitted during the PHE, however, the revised language at § 409.46(e) allowing a broader use of telecommunications technology to be reported as an allowable administrative cost on the home health agency cost report, does not appear to include audio-only technology.

Recommendations:

- CMS should provide flexibility regarding the documentation requirements on the POC and permit documentation throughout the medical record to be used to support the use of telecommunication technology.
- CMS should allow a practitioner's order for the use of telecommunication technology be the only POC requirement.
- CMS should develop a model for claims reporting and payment for home health visits provided by telecommunication.
- CMS should permit telecommunication technologies to include audio only (telephonic) technology.

6. Proposed Area Wage Index Transition

In the CY2021 Home Health Rule, CMS proposes to institute an updated area wage index for 2021. CMS proposes to transition to the new wage index areas, but proposes to cap any reduction in the wage index at 5%. PHA appreciates CMS' willingness to smooth the transition of HHAs to new wage area designations. We support a transition approach, as some changes can far exceed the annual MBI update and create unexpected and undesirable financial instability for providers. We are concerned, however, about CMS' continued use of the pre-floor, pre-reclassified hospital wage index for HHAs. As you know, HHAs compete for staff with hospitals; they must be able to pay competitive wages for patient care and administrative staff. Competing employers should not have distinct wage index adjustments that are intended to reflect wage variations across the country. If CMS continues to employ a rural floor and permit geographic reclassifications for hospitals under the wage index, it should permit the same for HHAs or assign the hospital wage index based on the primary hospital that serves the geographic area of the HHA patient.

Recommendations:

- CMS should develop and make public an impact analysis of applying the previous transition approach in implementing new wage areas in the wage index where a 50/50 blend of old and new indexes was used.

- CMS should use a rural floor and permit geographic reclassifications for HHAs under the wage index or permit HHAs to assign the hospital wage index based on the primary hospital that serves the geographic area of the HHA patient.

7. Home Infusion

In the proposed rule, CMS confirms the coverage and payment requirements for home infusion therapy suppliers from the CY2020 Rule and outlines the proposed Medicare enrollment requirements for accredited home infusion therapy suppliers. Per CMS, Medicare contractors will not accept Medicare enrollment applications for home infusion therapy suppliers until after the finalization of the 2021 proposed rule. This timeline is concerning, because it would allow only two months for providers to complete the enrollment process prior to the permanent implementation of the new benefit that begins on January 1, 2021. We also understand that a number of home health agencies are not planning to enroll as a Part B home infusion therapy providers. Combined, these circumstances could lead to service disruptions and an insufficient number of suppliers to serve beneficiaries.

Recommendations:

- CMS should delay the implementation of the permanent home infusion therapy supplier benefit to at least three months after the COVID-19 PHE ends.
- If delay is not possible, CMS should use its authority to not enforce the prohibition for HHAs to provide the professional services associated with Part B infusion drugs under the home health benefit.

8. Homebound Criteria During the Covid-19 PHE

CMS has revised homebound criteria for the home health benefit during the PHE to acknowledge that care recipients are effectively homebound when it is contraindicated for them to leave their home. As you know, the strategies needed to prevent transmission and protect beneficiaries from the spread of COVID-19 require many Medicare beneficiaries to receive necessary health care services in their homes.

Recommendation:

- PHA requests CMS to continue to recognize that the COVID-19 PHE and other situations or conditions where it is medically contraindicated for a beneficiary to leave the home satisfy the homebound requirement.

Thank you again for the opportunity to provide comments and recommendations.

Sincerely,

Teri L. Henning, CEO