American Academy of PAs

September 11, 2023

The Honorable Chiquita Brooks-LaSure, MPP
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Payment for Intensive Outpatient Services in Rural Health Clinics, Federally Qualified Health Centers, and Opioid Treatment Programs; Hospital Price Transparency; Changes to Community Mental Health Centers Conditions of Participation, Proposed Changes to the Inpatient Prospective Payment System Medicare Code Editor; Rural Emergency Hospital Conditions of Participation Technical Correction - Attention: CMS-1786-P

Dear Administrator Brooks-LaSure,

The American Academy of PAs (AAPA), on behalf of the more than 168,300 PAs (physician assistants/associates) throughout the United States, is pleased to provide comments on the 2024 Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment System (OPPS) proposed rule. PAs and the patients they serve will be significantly impacted by many of the proposed modifications to coverage and payment policies in the proposed rule. PAs currently provide hundreds of millions of patient visits each year, many of which are with Medicare beneficiaries.

PAs seek to work in partnership with CMS to advance policies that increase access to high quality care for all Medicare beneficiaries. It is within this context that we draw your attention to our comments.

The Authorization of PAs to Supervise Cardiac, Intensive Cardiac, and Pulmonary Rehab Services Furnished to Outpatients

Implementing legislative language contained in the Balanced Budget Act of 2018, the 2024 OPPS proposed rule proposes to authorize PAs, nurse practitioners, and clinical nurse specialists to supervise cardiac, intensive cardiac, and pulmonary rehabilitation services. Currently, only physicians are authorized to

supervise and prescribe these services. If a physician is not available to supervise these services, patient access may be delayed or, in certain cases, not received at all.

AAPA approves of the proposal and encourages finalization. The ability to supervise cardiac, intensive cardiac, and pulmonary rehabilitative services such as the establishment of an exercise program, counseling, education, and outcomes assessment, is within the level of expertise of PAs.

With the inclusion of PAs, nurse practitioners, and clinical nurse specialists as authorized to supervise cardiac, intensive cardiac, and pulmonary rehabilitation services, AAPA further requests that CMS now modify language regarding "physician prescribed exercise" to include PAs. Previous justifications[1] by CMS for not modifying the term included the fact that language in the Social Security Act (§1861(eee)(3)) stated that the program was under the supervision of a physician. As legislation has now changed this section of the Social Security Act[2] to include PAs and other health professionals as authorized to supervise this program, AAPA requests that, while adding PAs to 42 CFR §410.49 for the purpose of supervision, CMS should now further modify this section accordingly. AAPA would prefer the use of a more general term such as "provider prescribed exercise," however, if the exact wording is unable to be modified due to statutory constraints, we request that CMS reinterpret the intent of the section to indicate that health professionals now authorized to supervise may prescribe exercise as well. We encourage CMS to make similar modifications when the term is used elsewhere in the CFR (such as 42 CFR §410.47).

Similarly, despite PAs having received authorization to supervise cardiac, intensive cardiac, and pulmonary rehabilitation, statutory language maintains that only a physician may order these services. AAPA contends that there is no medical justification for this ongoing restriction which serves only to limit patient access to such services. We urge CMS to work with Congress to modify physician-centric language in the US Code that prohibits PAs and other health professionals from ordering cardiac, intensive cardiac, and pulmonary rehabilitation.

AAPA approves of CMS implementing the authorization for PAs, nurse practitioners, and clinical nurse specialists to supervise cardiac, intensive cardiac, and pulmonary rehabilitation services. We request that CMS additionally modify language regarding "physician prescribed exercise" to include PAs. Finally, AAPA urges CMS to work with Congress to modify physician-centric language that prohibits PAs and other health professionals from ordering cardiac, intensive cardiac, and pulmonary rehabilitation.

Outpatient Hospital Payment Rate Increase

If implemented as drafted, the 2024 OPPS proposed rule would increase payment rates by a factor of 2.8 percent. This would result in a payment of approximately $88.6 billion, an estimated increase of $6 billion

[1] https://www.cms.gov/medicare-coverage-database/view/ncacal-decision-memo.aspx?proposed=N&NCAId=270
[2] https://www.ssa.gov/OP_Home/ssact/title18/1861.htm

over CY 2023. Hospitals must meet the hospital outpatient quality reporting requirements to be eligible for the full increase.

AAPA supports CMS increasing the factor by more than 2.8 percent. While such an increase may seem sizeable, AAPA remains concerned regarding the financial shortcomings of hospitals and health systems across the country. Many hospitals are currently operating in the negative or on extremely narrow margins. These economic challenges are often exacerbated for hospitals in rural communities. The American Hospital Association has stated that, "without a more robust payment update in the final rule, hospitals' and health systems' ability to continue caring for patients and providing essential services for their communities may be jeopardized."[3]

AAPA supports CMS increasing the payment rate by more than 2.8 percent for 2024 to minimize potential disruptions in delivery of care by hospitals that result from financial challenges.

Expansion of Access to Behavioral Health Services

AAPA applauds the continued expansion of access to behavioral health services, both generally, and specifically through many of the changes proposed in the OPPS. This expansion includes the establishment of the Intensive Outpatient Program (IOP), as outlined in Section 4124 of the Consolidate Appropriations Act (CAA) of 2023, which will see IOP services covered by Medicare in a variety of mental health settings, including community mental health centers, federally qualified health centers, and rural health clinics.

However, AAPA would be remiss if it did not take this opportunity to point out that the language proposed, which is based on statutory language traditionally associated with partial hospitalization program services (PHP) and which was expanded in the language of the CAA of 2023, is physician-centric. By requiring physician certification for IOP and PHP services, the language potentially restricts access to these services for patients who rely on PAs for their mental health care. AAPA recommends CMS work with Congress to update the statutory language to authorize PAs to provide this certification.

Mental and behavioral health, much like healthcare generally, is experiencing worsening provider shortages, compounding already existing access issues. Sixty percent of US counties have no practicing psychiatrists and limited numbers of psychologists or social workers, significantly limiting access to needed behavioral health treatment and contributing to inadequate care and unsafe conditions.[4] A recent New York University study found that while demand for mental health services is increasing patient access is decreasing.[5] Untreated

[3] American Hospital Association, Outpatient PPS: Hospital Outpatient, Ambulatory Surgical Center Proposed Rule for CY 2024. (July 28, 2023). Last accessed September 5, 2023. Available at: https://www.aha.org/advocacy/current-emerging-payment-models/outpatient-pps

[4] Substance Abuse and Mental Health Services Administration. 2019. Key substance use and mental health indicators in the United States: Results from the 2018 National Survey on Drug Use and Health (HHS Publication No. PEP19-5068, NSDUH Series H-54). Rockville, MD: Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration. Retrieved from https://www.samhsa.gov/data/

[5] Heath, Sara. PatientEngagementHIT. 2017. Mental Healthcare Access Shrinks as Patient Demand Grows. Retrieved from https://patientengagementhit.com/news/mental-healthcare-access-shrinks-as-patient-demand-grows

mental and behavioral health conditions can result in disability, lost productivity, substance abuse issues, family discord, and even death.[6]

The National Center for Health Workforce Analysis indicates that by 2030, 44 states are projected to have fewer psychiatrists than needed to meet the demand for services.[7] 156 million people live in communities with limited access to mental healthcare services.[8] The National Council for Behavioral Health expects that, by 2025, there will be a deficit of 12% in the psychiatric workforce to sufficiently address patient needs.[9] An inadequate supply of providers of behavioral/mental health services may lead to delays in diagnosis and care, rationing of resources, ineffective care, and increased negative consequences of mental illness and substance use.[10] These problems will be further magnified in rural and underserved areas.

Increased practice flexibilities for behavioral/mental health professionals will have a positive impact in addressing such access issues. All qualified health professionals must be authorized to practice to the full extent of their license and training. As qualified providers of behavioral and mental health services, PAs can play an important role in increasing beneficiary access to needed care.

PAs are trained and qualified to diagnose and treat behavioral and mental health conditions based on their medical education, including didactic instruction and clinical practice experience in psychiatry and other medical specialties, and have national certification, state licensure, and authority to prescribe controlled and non-controlled medications.[11] PAs working in behavioral and mental health provide high-quality, evidence-based care and improve access to needed behavioral/mental health services. Based on their graduate level medical education, PAs practicing in mental health and substance use treatment can expand access to necessary care. PA education includes more than 2,000 hours in clinical rotations, including experience in behavioral and mental health, emergency medicine, primary care, internal medicine, and other specialties across the lifespan from pediatrics to geriatrics, providing a foundation to address the diverse medical needs of people with mental illness or substance use issues.[12]

PAs perform psychiatric evaluations, assessments, and pharmaceutical management services; order, perform, and interpret diagnostic psychological and neuropsychological tests; establish and manage treatment plans, and collaborate with psychiatrists and other healthcare professionals. PAs work in mental health facilities and psychiatric units, often in rural and public hospitals where there are inadequate numbers

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[6] Mayo Clinic. 2019. Mental Illness. Retrieved from https://www.mayoclinic.org/diseasesconditions/mentalillness/symptomscauses/syc20374968#:~:text=Untreated%20mental%20illness%20can%20cause,Family%20conflicts

[7] U.S. Department of Health and Human Services, Health Resources and Services Administration, National Center for Health Workforce Analysis. 2018. State-Level projections of supply and demand for behavioral health occupations: 2016-2030. Rockville, Maryland. Retrieved from https://www.hrsa.gov

[8] https://data.hrsa.gov/topics/health-workforce/shortage-areas

[9] National Council for Behavioral Health. 2017. The psychiatric shortage: Causes and solutions. Retrieved from https://www.thenationalcouncil.org

[10] Ibid

[11] American Academy of PAs. What is a PA? Retrieved from https://www.aapa.org/what-is-a-pa/

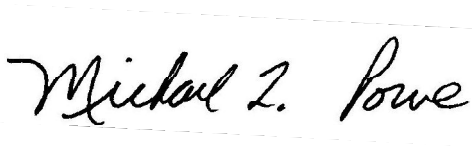
[12] Ibid

of psychiatrists.[13] Additional PA practice areas include assertive community treatment teams, psychiatric emergency departments, pediatric and geriatric psychiatry, and addiction medicine.

AAPA supports the proposals mentioned in the OPPS proposed rule that seek to expand patient access to needed behavioral/mental health services. To further expand patient access to behavioral/mental health services, AAPA requests that CMS strongly encourage and work with Congress to modify physician-centric statutory language regarding physician certification requirements for PHP and IOP.

Thank you for the opportunity to provide comments regarding the OPPS proposed rule. AAPA welcomes further discussion with CMS regarding these important issues. For any questions you may have please do not hesitate to contact me at michael@aapa.org.

Sincerely,



Michael L. Powe, Vice President
Reimbursement & Professional Advocacy

[13] Andrilla CHA, Patterson DG, Garberson LA, Coulthard C, Larson EH. American Journal of Preventive Medicine. 2018. Geographic variation in the supply of selected behavioral health providers. Retrieved from https://www.ajpmonline.org/article/S0749-3797(18)30005-9/fulltext