June 18, 2019

Seema Verma Administrator
Centers for Medicare & Medicaid Services (CMS)
Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

Re: Medicare Program; FY 2020 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements

Dear Administrator Verma,

The American Academy of PAs (AAPA), on behalf of the more than 131,000 PAs (physician assistants) throughout the United States, appreciates the opportunity to provide comment on the Medicare FY 2020 hospice proposed rule. The Medicare hospice benefit is evolving to provide an increased focus on the unique needs of this vulnerable patient population through policies that seek to simplify care, expand access, and encourage care coordination. The 2019 hospice final rule codified a significant advancement toward these goals by removing barriers for PAs to provide care to the hospice population through the designation of PAs as "attending physicians." However, obstacles to the full integration of PAs into Medicare's hospice program remain which prevents optimal patient access, efficiency and continuity.

Previously, Medicare policy was restrictive regarding the ability of PAs to provide hospice care. PAs were prohibited by statute from providing care that was directly related to a hospice patient's terminal illness, despite the fact that a PA is often a patient's primary health professional. Comparable health professionals, physicians and nurse practitioners (NPs), could provide and be reimbursed for most hospice services acting as a hospice "attending physician." Changes in federal legislation (the Medicare Patient Access to Hospice Act as part of the Bipartisan Budget Act of 2018) and, subsequently, in CMS regulation broadened the Medicare definition of hospice "attending physician" to include PAs. As of January 1, 2019, PAs are permitted to provide, manage, and have hospice services reimbursed by Medicare.

Despite the statutory and regulatory changes authorizing PAs to serve as a hospice patient's attending physician, CMS' reliance on an outdated Medicare hospice Condition of Participation (CoP), 42 CFR 418.106(b), prohibits PAs from carrying out an essential component of the attending physician role, which is ordering medications for hospice patients. The existing CoP only lists physicians and NPs as being able to order medication, but not PAs.

Now that PAs are authorized as attending physicians for hospice, there is no reason they should be excluded from being able to order medications, a restriction codified in the CoPs before PAs were given attending physician status. PAs are authorized to prescribe in all 50 states and the District of Columbia and have had been prescribing to Medicare beneficiaries outside of the hospice benefit for decades. We hope that statutory language and congressional intent would not be overlooked because a CMS CoP has not yet been updated to align with the law.

In a time of worsening physician shortages, health professionals such as PAs will be increasingly relied upon to fill the access to care gaps. It is essential that PAs be permitted to practice to the full extent of their education and expertise. Patients electing the Medicare hospice benefit should not be denied the continuity of care of being treated by the PA with whom they have had a trusted relationship in what is arguably the most vulnerable and difficult time in a patient's life.

AAPA requests that CMS take immediate action to align agency policy with the statutory language contained in the Medicare Patient Access to Hospice Act by authorizing PAs to prescribe medications to Medicare hospice patients and allow PAs to fulfill their responsibilities as attending physicians. This can be achieved by CMS stating that it will not enforce outdated hospice CoP language limiting PA prescribing for hospice patients since such a prohibition is in direct conflict with existing statutory language. AAPA also requests that CMS expeditiously reopen the hospice CoPs in order to include PAs in official CoP language which identifies who is authorized to prescribe medication to Medicare hospice patients.

Within CMS' hospice proposed rule, the agency requested information on the concept of integrating hospice into other care models, to include Medicare Advantage, as the hospice benefit is currently only available under traditional, fee-for-service Medicare. Under the current system, beneficiaries covered by Medicare Advantage and certain other care models who elect hospice receive their hospice care through traditional fee-for-service Medicare. However, supplemental services and Part D drugs not related to the terminal illness are still provided through the plan or care model in which the beneficiary is enrolled. The expectation is that an integration of hospice into other care models would alleviate payment fragmentation and better coordinate care.

AAPA concurs with CMS' interest in simplifying the Medicare payment process, particularly in light of any potential for confusion that may arise for patients receiving care. AAPA supports CMS exploring remedies that will eliminate disjointed care that may negatively impact the efficiency and transparency of the billing and care delivery process. Hospice care, when appropriately included in fee-for-value care models, may also shift the provision of care away from a series of individual services and accentuate the focus on seamlessly providing coordinated care that is tailored for each patient.

If CMS concludes that it will proceed with including the hospice benefit under other care models it is essential that Medicare policies prevent exclusionary policies in participating models that would hinder or exclude the optimal provision of care to hospice patients from health professionals such as PAs. For example, PAs were given the status of "attending physician" under Medicare fee-for-service. As such, Medicare must ensure other care models recognize and do not place onerous, additional practice requirements on PAs, to ensure that beneficiaries receiving hospice care under any payment models do not face barriers to access for medically necessary care.

Thank you for the opportunity to provide feedback on the hospice proposed rule. AAPA welcomes further discussion with CMS regarding our position and comments. For any questions you may have in regard to our comments and recommendations, please do not hesitate to contact Michael Powe, AAPA Vice President of Reimbursement & Professional Advocacy, at 571-319- 4345 or michael@aapa.org.

Sincerely,

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President and Chair of the Board