September 23, 2020

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

Re: (CMS-1734-P) 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

Dear Administrator Verma,

The undersigned organizations write to provide comments on the proposed quality revisions for Accountable Care Organizations (ACOs) included in the proposed 2021 Medicare Physician Fee Schedule rule. CMS proposes sweeping changes to how ACO quality is assessed, how quality data is reported and how ACOs are evaluated on quality for both the Medicare Shared Savings Program (MSSP) and Merit-Based Incentive Payment System (MIPS). We appreciate that the Centers for Medicare and Medicaid Services (CMS) has considered how to reduce the required number of measures, provide flexibility in how measures are submitted and mitigate potential reductions in 2020 performance by using the higher of 2019 or 2020 scores. However, the timing of these changes is very concerning as ACOs continue to deal with the uncertainty that the COVID-19 Public Health Emergency (PHE) is bringing to the health care industry. Additionally, the expected delayed release of the final rule further reduces the amount of time ACOs and other Alternative Payment Models (APMs) will have to implement such changes.

Quality improvement is a cornerstone of the ACO model. In addition to reducing spending, ACOs must meet certain quality performance standards to be eligible to receive shared savings payments. ACOs continue to improve quality year over year, which improves patient care and helps to control costs. It is critical that CMS policies to evaluate ACO quality are fair, appropriate and accurately reflect the work ACOs engage in to improve patient care. CMS's proposals to change the way ACO quality is assessed, reported and scored for purposes of shared savings calculations are significant and more feedback should be collected before moving forward with such drastic changes.

Removal of the Web Interface Reporting Option
CMS proposes to abruptly end the use of the Web Interface reporting mechanism, a tool that has

been used since the MSSP's inception. Removing this option for all ACOs with no notice is ill timed and unfair. Further, CMS has not been clear regarding how the alternative MIPS reporting options will be utilized for ACO entities specifically. There are several key questions and obstacles to moving away from this reporting method. For example, the current remaining MIPS reporting options available under the Alternative Payment Model Performance Pathway (APP) would be registry (MIPS CQMs) and EHR (eCQMs). Using these reporting options would result in the ACO being evaluated on quality for all patients they serve, not only ACO assigned patients. This is not a true evaluation of the ACO's quality efforts and additionally, raises contractual and legal concerns as an ACO may not have the ability to access patient data for non-ACO patients. It also greatly increases reporting burden because ACOs will now have to report on ALL patients regardless of payer, as opposed to a pre-defined set of patients.

ACOs use a variety of technology and infrastructure approaches for combining clinical data across the ACO, such as using one EHR platform across all participating providers or combining clinical data extracts from participating clinicians. Recognizing the diversity of ACOs, we appreciate options for ACOs to report quality measures. However, making the switch to these alternative reporting options will cost many ACOs considerable time, money and effort in changing workflows, paying for registries and adapting and modifying Electronic Health Records to comply with eCQM standards. For these reasons, we urge CMS to provide a more gradual transition away from the use of the Web Interface reporting option to give more time and thought to how this will practically be implemented and to give ACOs more time to assess their alternatives. At a minimum, the Web Interface must be continued for at least one additional year to give ACOs sufficient time to implement a new reporting method.

Removing the Pay-for-Reporting year

The proposed rule would also remove the pay-for-reporting year currently provided to ACOs beginning an initial MSSP contract as well as individual measures that are newly introduced to the measure set. It also would remove the ability of CMS to provide pay-for-reporting when measures undergo significant changes, such as guideline changes. We oppose CMS's proposal to remove pay-for-reporting. Providing the pay-for-reporting year is critical to an ACO's success. This year allows an ACO to evaluate their current workflows, data capture processes and other operational strategies to see where changes are needed and what areas to focus on. Further, providing a newly introduced measure or a measure undergoing significant changes with a pay-for-reporting year ensures there are no unintended consequences or flaws in the measure specifications before holding an ACO accountable for performance on the measure. Allowing this time to assess workflows and operations before ACOs are held accountable for performance on measures allows ACOs to be successful in getting credit for the good quality improvement work they are already engaged in, as often times a measure is not only assessing true quality but also how the quality data are captured.

APP Measure Set

CMS also proposes significant changes to the quality measure set ACOs must report under the new APP. While a reduction in measures is generally supported and may reduce reporting burdens, we do not feel the current proposed APP measure set is appropriate and we instead urge CMS to take more time to gather more stakeholder input, such as through a Request for Information (RFI) or open stakeholder forum and seek feedback from the Measure Applications Partnership (MAP). The

statutory intent of the MAP was to evaluate quality measures to ensure the measures appropriately fit a program, and the MAP did not review these proposed changes in the 2019-2020 review cycle.

Replacing the APM Scoring Standard with the APP

Finally, the proposed rule would replace the current MIPS APM Scoring Standard, which allows each APM to have its own set of unique quality measures and scoring approaches that best fit the particular model. This approach allows specific APMs to have meaningful quality measures tailored to their model's goals while still providing credit for quality improvement efforts to those who are also subject to MIPS. The proposed APP approach would instead apply one set of quality measures for all APMs subject to MIPS. Therefore, each model participant would need to report not only their APM's specific quality measures, but the APP quality measures as well. This one size fits all approach results in more burden for APM participants and further may require the model participants to report on measures that are not applicable or appropriate. We instead urge CMS to maintain the APM Scoring Standard.

Conclusion

In conclusion, the ACO quality changes proposed are significant and come at a time when ACOs are continuing to deal with challenges and uncertainty caused by the COVID-19 pandemic. Just as CMS has proposed to delay moving forward with the MIPS Value Pathways (MVP) approach due to concerns with COVID-19, CMS should also postpone such a drastic and significant change to the way ACO quality is measured, assessed, reported and scored for purposes of both the MSSP and MIPS programs. The undersigned organizations ask CMS to not finalize these proposals at this time and continue to collect stakeholder feedback on this very important issue which affects APMs and the patients they serve. We would be happy to continue to provide additional input on the future of ACO quality measurement.

Sincerely,

American College of Physicians
American Medical Association
America's Essential Hospitals
America's Physician Groups
AMGA
Association of American Medical Colleges
Federation of American Hospitals
Medical Group Management Association
National Association of ACOs (NAACOS)
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