

December 16, 2016

Submitted via www.regulations.gov

Andrew M. Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-5517-FC
P.O. Box 8013
7500 Security Boulevard
Baltimore, MD 21244-8016

RE: CMS-5517-FC – Medicare Program; Merit-Based Incentive Payment System (MIPS) and Alternative Payment Model (APM) Incentive Under the Physician Fee Schedule, and Criteria for Physician-Focused Payment Models (81 Fed.Reg. 77008 November 4, 2016)

Dear Mr. Slavitt:

On behalf of the undersigned organizations, we are pleased to provide comments on the final rule with comment for Medicare Program; Merit-Based Incentive Payment System (MIPS) and Alternative Payment Model (APM) Incentive Under the Physician Fee Schedule, and Criteria for Physician-Focused Payment Models Request for Information Regarding Implementation of the Merit-Based Incentive Payment System, Promotion of Alternative Payment Models, and Incentive Payments for Participation in Eligible Alternative Payment Models (81 Fed. Reg. 77008, November 4, 2016).

Advanced Practice Registered Nurses (APRNs) include Certified Nurse-Midwives (CNMs), Certified Registered Nurse Anesthetists (CRNAs), Clinical Nurse Specialists (CNSs), and Nurse Practitioners (NPs). APRNs play a significant role in ensuring patient access to high quality healthcare that is cost-effective. We thank the agency for the opportunity to comment on the provisions in this final rule.

Implementation of Quality Payment Program Underscores the Need to Ensure that a Service Provided to a Patient is Associated with the Actual Provider of the Service

We continue to be concerned about the negative impact increasing flexibility in billing “incident to” for the services of APRNs will have on accurate reporting of value-based outcomes. We have stated in our previous comments from November 2015 and from June 2016 that we believe that a payment system designed to incentivize high quality, value based services must clearly and consistently identify the provider responsible for actually rendering a service, as well as ensure that Medicare claims accurately identify the rendering provider. While we have encouraged the elimination of “incident to” billing, we also recommended the use of modifiers to identify both when a line item in a claim was provided incident to as well as the licensure of the actual rendering provider. As we have noted, this recommendation is consistent with the third principle of Health Care Payment Learning and Action Network APM Framework white paper. Without establishing a mechanism to ensure transparency and clarity in identifying the actual provider of a service, it will be impossible to accurately calculate value based performance adjusters at a provider-specific level, which will undermine the accuracy of MIPS performance scoring. We ask that you revisit this issue and our suggestions related to it.

Ensure Equal Treatment among APRNs and Physicians with Respect to Opportunities for Participating in Virtual Groups

As CMS develops parameters for virtual groups, we urge CMS to consider how all eligible clinicians, including APRNs, can be treated equally under this program. In doing so, we ask that CMS not hamper their eligibility for and participation in these groups.

We offer the following recommendations regarding parameters for establishing virtual groups. First, CMS should not limit the number of virtual groups that can combine their MIPS reporting. Allowing for virtual groups to report under a virtual TIN is a positive step towards ensuring that smaller group practices can participate in Merit-Based Incentive Payment System (MIPS). Second, CMS should not limit the size of virtual groups for the purpose of MIPS reporting. Furthermore, CMS may want to consider limiting virtual groups to be of the same specialty.

Include APRNs in All Aspects of Implementation for Virtual Groups

We appreciate that CMS does realize that there are barriers regarding the development of a technical infrastructure required for successful implementation of the virtual groups within MIPS. As CMS identifies requirements for virtual groups and the mechanisms for implementation, we request that APRNs be included in all aspects, particularly as part of the user groups. We believe that APRNs must be active participants in the development of the EHR software and be recognized as providers within the EHR software database. This would assist in ensuring that accurate data in relation to outcome measures is captured for the actual clinician who provided the service. This reinforces transparency and enables proper system development and operations certified by CMS for utilization in virtual groups. In this vein, we believe that accurate data and reporting of clinicians will additionally be supported by EHR incentives for Certified EHR technology and interoperability for virtual groups in the MIPS program.

Measures Finalized for Adoption in MIPS Program Should Be Inclusive of All Relevant Stakeholders and Should Be Inclusive of APRN Practice

We are concerned that some measures and their underlying measure specifications for use in the MIPS program are not inclusive of APRN practice. We urge CMS to ensure that quality measures development, implementation and evaluation are inclusive of all appropriate stakeholders, including APRNs. We oppose the agency propagating quality measures that have not met a legitimate stakeholder consensus development process. We recommend that future proposed measure specifications be open to public comment for a minimum of 30 days prior to finalization in the MIPS program, and that these measures be finalized for adoption at least 90 days prior to the start of the reporting period to aid in adoption.

Ensure that the Process for Identifying and Deciding to Remove Topped Out Measures Be Inclusive of APRNs

As the agency is examining the best method for identifying topped-out measures and for quantifying a decision to remove measures from the MIPS program (p. 77140), we ask that the process for identification and the determination for the removal of topped out measures be inclusive of APRNs. Evaluation of topped out measures should take into account all appropriate stakeholders, including APRNs, and the process for doing so should be transparent, based on evidence and patient-centeredness.

We thank you for the opportunity to comment on the final rule with comments. Should you have any questions regarding these matters, please feel free to contact the AANA Senior Director of Federal Government Affairs, Ralph Kohl, at 202.484.8400, rkohl@aanadc.com.

Sincerely,

American Academy of Nursing, AAN
American Association of Colleges of Nursing, AACN
American Association of Nurse Anesthetists, AANA
American Association of Nurse Practitioners, AANP
American College of Nurse-Midwives, ACNM
American Nurses Association, ANA
American Organization of Nurse Executives, AONE
Gerontological Advanced Practice Nurses Association, GAPNA
National Association of Clinical Nurse Specialists, NACNS
National Association of Nurse Practitioners in Women's Health, NPWH
National Association of Pediatric Nurse Practitioners, NAPNAP
National League for Nursing, NLN