

June 11, 2012

Marilyn Tavenner  
Acting Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attn: CMS-2370-P  
P.O. Box 8010  
7500 Security Boulevard  
Baltimore, MD 21244-8010

RE: CMS-2370-P – Medicaid Program; Payments for Services Furnished by Certain Primary Care Physicians and Charges for Vaccine Administration Under the Vaccines for Children Program

Dear Ms. Tavenner:

We, the undersigned organizations representing advanced practice registered nurses (APRNs), are pleased to submit the following comments on the proposed rule released by the Centers for Medicare and Medicaid Services (CMS) on May 11, 2012. We are disappointed that the proposed rule does not equitably treat all health professionals who are licensed to provide primary care services to Medicaid beneficiaries as authorized by state law and the Social Security Act. We urge CMS to consider avenues that would enable independently practicing certified nurse-midwives (CNM), nurse practitioners (NP), clinical nurse specialists (CNS), and certified registered nurse anesthetists (CRNA) providing primary care services to Medicaid beneficiaries to be eligible for the increased reimbursement CMS provides in this proposed rule.

### **APRNs and Primary Care**

Primary care is the provision of integrated, accessible health care services by clinicians who are accountable for addressing the majority of health care needs, developing a sustained partnership with patients, practicing within the context of family and community. Research indicates primary care services provided by advanced practice nurses compare favorably to those provided by physicians.

For example, the Institute of Medicine (IOM) issued a study in October 2010 titled *The Future of Nursing: Leading Change, Advancing Health*, which outlines how APRNs regular, close proximity to patients and scientific understanding of care processes across the continuum of care give them a unique ability to partner with other health professionals and to lead in the improvement and redesign of the health care system. The IOM report outlines several paths by which patient access to care may be expanded, quality preserved or improved, and costs controlled through

greater use of APRNs, including CRNAs. The IOM report specifically recommends that, “advanced practice registered nurses should be able to practice to the full extent of their education and training.” The report also says the nursing profession has the potential to effect wide-reaching changes in the health care system. APRNs can help bridge the gap between coverage and access, to coordinate increasingly complex care for a wide range of patients, to fulfill their potential as primary care providers to the full extent of their education and training, and to enable the full economic value of their contributions across practice settings. In addition evidence links nursing care to high quality of care for patients, including protecting their safety in preventing medication errors and reducing rates of infection,

## **Affordable Care Act**

The Affordable Care Act (ACA) has several important provisions that encourage greater utilization of APRNs due to their role in delivering primary care services. These include:

Section 10101 of the ACA establishes numerous patient protections relating to health insurance coverage. Of particular significance to CNMs is a provision stating that group health plans or health insurance issuers offering group or individual health insurance coverage are required to permit female enrollees to obtain obstetrical or gynecological care without having first sought authorization or referral by the plan or a primary care physician. This provision will enable midwives to provide primary care services directly to women.

Section 5308 of the ACA modifies the Advanced Education Nursing Grant program to stipulate that only midwifery programs accredited by the American College of Nurse-Midwives Accreditation Commission for Midwifery Education are eligible. The focus of the grant program is the development of midwives and advanced practice registered nurses (APRNs) with a focus on primary care.

Section 5509 of the ACA authorizes a new Graduate Nursing Education Demonstration for four years to rapidly increase the number of APRNs with the clinical skills necessary to provide primary care, preventive care, transitional care, and chronic care management.

Section 3114 of the ACA increased the rate of reimbursement for CNMs from 65% of the Medicare Part B fee schedule to 100% in an effort to provide equitable reimbursement for midwifery services. According to analysis from the American Nurses Association, more than 50% of midwifery services provided under the Medicare program were for primary care services, including well woman services for disabled and senior women. ACNM believes this percentage would be higher in Medicaid.

Section 5208 of the ACA establishes a grant program to fund Nurse-Managed Health Clinics to expand access to vital primary care services. Led by APRNs, such facilities will also serve as a valuable clinical training site for delivery of primary care services.

## Concerns with the Proposed Rule

Given the role many APRNs currently play in delivering primary care services to women, as authorized by state law; the fact that nurse-midwifery and nurse practitioner services are mandatory benefits under Medicaid; the focus of the ACA in expanding opportunities for APRNs to receive training in primary care delivery and expanding facilities where APRNs can provide primary care services; and the research and studies that exist regarding the benefits of primary care services provided by APRNs, it is of significant concern that a proposed rule to expand payment for primary care services under Medicaid would exclude independently practicing APRNs.

While Congress did not specifically name APRNs professionals in Section 1202 of the Affordable Care Act relating to primary care payment under Medicaid for calendar years 2013 and 2014, CMS has stated in the proposed rule that physician practices will be allowed to bill for services provided by APRNs and count them as eligible for the payment increase when under the personal supervision of a physician. We appreciate the recognition CMS provides to the primary care role many APRNs play in delivering care to Medicaid beneficiaries today. However, we are extremely concerned by the exclusion of all independently practicing APRNs from consideration within this proposed rule. We encourage CMS to utilize the authority of the Secretary to modify this proposed rule to ensure all health professionals authorized by state law and recognized under the Social Security Act, to provide services similar to those provided by the physicians identified specifically in the statute, are eligible under the final rule.

APRNs care for Medicaid beneficiaries in some of the most underserved parts of the United States. We remain concerned that access problems for such beneficiaries will be worsened when APRN-led practices are unable to compete with physician-led practices due to the inequitable reimbursement rates this proposed rule establishes.

Thank you for your attention to these important issues, and for consideration of these comments. Please contact Patrick Cooney at 202-347-0034 or via email at [Patrick@federalgrp.com](mailto:Patrick@federalgrp.com) if you have questions regarding these comments.

Sincerely,

American Association of Nurse Anesthetists  
American College of Nurse-Midwives