



March 2, 2018

Ms. Seema Verma
Administrator
U.S. Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-2017-0163
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Docket Number CMS-2017-0163, Advance Notice of Methodological Changes for Calendar Year (CY) 2019 for Medicare Advantage (MA) Capitation Rates, Part C and Part D Payment Policies and 2019 Draft Call Letter

Dear Administrator Verma:

The Home Care Association of New York State (HCA), is a statewide not-for-profit organization representing nearly 300 health care providers, allied organizations, managed care plans and individuals committed to the availability and advancement of quality home care services and supports in New York State and nationally.

On behalf of our member agencies serving over 200,000 Medicare Advantage (MA) and fee-for-service home health beneficiaries annually, we appreciate the opportunity to provide comments on the U.S. Centers for Medicare and Medicaid Services (CMS's) proposal to increase flexibility in the MA program by allowing more options and new benefits to Medicare beneficiaries (CMS-2017-0163 Draft Call Letter).

As a concern related to terminology referenced in the Call Letter, HCA recommends that CMS refrain from the use of the term "non-skilled" when referring to home health aide (HHA) and personal care aide (PCA) services. While these services are not provided by professional clinicians, they are provided by a trained, dedicated, caring workforce that can make the difference in a patient's ability to age in place or a patient having to receive services in an institutional setting. HCA recommends utilizing terminology "home health aide (HHA) or personal care aide (PCA)" services rather than "non-skilled" services.

HCA Strongly Supports CMS's Proposed Change to Increase Flexibility in the Medicare Advantage Program

HCA strongly supports CMS’s intention to expand the scope of the primarily health related benefit standard to permit the offering of “healthcare benefits” as supplemental benefits and to interpret this term broadly. HCA supports this new interpretation that, in order for a service or item to be “primarily health related”, “it must diagnose, prevent, or treat an illness or injury, compensate for physical impairments, act to ameliorate the functional/psychological impact of injuries or health conditions, or reduce avoidable emergency and healthcare utilization.”

HCA strongly believes that this new expansive language points clearly to coverage of HHA/PCA in-home services and supports, portable wheelchair ramps and other assistive devices and modifications when patients need them. Specifically, HCA urges that new supplemental benefits should include these home care services that help people to live independently in their community, and include assistance with activities of daily living, such as assistance with bathing, toileting, transferring, dressing, feeding, etc. and instrumental activities of daily living, including meal preparation, bill paying, shopping, cleaning, etc. All of these services, which are a vital cornerstone of the home care continuum of services, positively impact physical and mental health of frail, disabled and elderly beneficiaries, and improve quality of life.

The number of Medicare beneficiaries increases each year, and a growing desire of this population is to remain active and healthy, with the opportunity to age in place in the home and community. By expanding the opportunity for coverage of in-home services and supports such as HHA and PCA services, the Medicare benefit becomes transformative and modernized, responsive to the daily realities of those seeking to age in place, and certainly meets the new CMS criteria of “...preventing illness or injury, compensating for physical impairments and acting to ameliorate the functional/ psychological impact of injuries or health conditions, or reduce avoidable emergency and healthcare utilization”. By definition, the core rationale behind HHA/PCA home care services has proven to deliver this exact promise.

HCA Offers the Following Comments, Concerns and Recommendations

While HCA is very supportive of these proposed changes, we would like to offer our comments, concerns and/or recommendations on the following areas:

- MA Program/ Plans Overall Utilization of the Home Care Benefit;
- CMS’s Consideration for the Proposal to Apply to the Medicare fee-for-service (FFS) benefit;
- The agencies or type of providers that will be eligible to provide coverage of the HHA/PCA in-home services and supports; and,
- Proactive screening of Medicare beneficiaries for the home care benefit, including the new supplemental HHA/PCA home care supports and services benefit.

MA Program/Plans Overall Utilization of the Home Care Benefit

CMS notes that Medicare Advantage remains a popular choice among beneficiaries and has high satisfaction ratings and that in 2018, Medicare Advantage and Part D premiums decreased and the number of Medicare Advantage plans available to choose from across the country increased from about 2,700 to more than 3,100 in the United States.

While that is certainly encouraging, HCA has learned from many of our Certified Home Health Agency (CHHA) provider members that they have encountered difficulties and delays in securing appropriate and timely authorization for the utilization of Medicare home health services, so that beneficiaries can get the maximum benefit of those services and remain in their homes. If many MA plans are under-utilizing or delaying the current skilled home health benefit, HCA has serious concerns that many MA plans may not appropriately utilize these new in-home services and supports.

When CMS formally makes changes to allow MA plans to cover these new in-home services and supports, HCA recommends that CMS take proactive and aggressive steps to educate the MA plans on the importance of this new benefit not only from a quality of life perspective for the beneficiary, but also an overall cost benefit to both the MA plan and entire Medicare program. We also recommend that CMS closely monitor MA utilization of this new important benefit to ensure that it is being used to its fullest potential.

Apply Proposal to Medicare Fee-for-Service

While enrollment in MA is at an all-time high as approximately one-third of all Medicare beneficiaries are enrolled in a plan, HCA is very concerned for the other two-thirds of Medicare beneficiaries that utilize Medicare FFS and their ability to enjoy the same kind of service flexibility that MA beneficiaries would experience under this proposal.

HCA believes all Medicare beneficiaries, not just those in MA plans, should have access to the increased Medicare benefit flexibility that will allow more options in meeting their unique health needs and improving their quality of life. HCA recommends that CMS offer and/or include Medicare FFS beneficiaries in this important new policy coverage change.

Agencies That Can Provide New HHA/PCA In-Home Services and Supports

As CMS outlines the requirements and structure of this new coverage category of services and supports, HCA recommends that quality of care, high standards, and program integrity remain at the forefront regarding the types of providers that can participate in delivering these new services to Medicare beneficiaries. HCA strongly recommends that participating providers should only include those that meet federal or state licensure requirements, including the current federally approved CHHAs, and also those that are state-licensed to provide HHA/PCA services. These agencies, known as Licensed Home Care Services Agencies (LHCSAs) in New York, are regulated and licensed by the State to ensure the highest levels of quality care, excellence in staff training and patient care, and oversight and compliance with all appropriate standards of care delivery. It is imperative that CMS, as it constructs the rules and regulations to make this important policy change, ensures the highest level of standards and quality by requiring MA plans to contract with only federal/state licensed and certified home care agencies.

Proactive Screening of Medicare Beneficiaries for the current Medicare Home Health Benefit and the New Supplemental Home Care Services and Supports

HCA recommends to CMS that they use this opportunity to require the MA plans to institute the proactive screening of Medicare beneficiaries to determine a patient's eligibility and need for

skilled home care services and as well appropriateness and need for HHA/PCA services. In addition, the coordination of these skilled and aide services delivered in the home should continue to be provided by Medicare certified agencies, which have a core competency of clinical management, care coordination, and expertise in the provision of a managed and coordinated in-home plan of care, guided by the patient's physician. HCA urges a more intense proactive screening process of all MA patients for these benefits, as the result can be a successful effort to age in place, a reduction in physician, hospital and nursing home services, and a higher quality of life for the beneficiary.

HCA is pleased with this recent announcement of the expansion of the supplemental benefits that would provide for HHA/PCA services for Medicare beneficiaries enrolled in MA plans. We thank CMS for this opportunity to submit comments and respectfully request CMS's consideration of our concerns and recommendations.

I would be pleased to answer any questions or assist CMS staff in any way going forward and can be contacted at jcunningham@hcanys.org or 518.810.0664.

Sincerely,

A handwritten signature in blue ink that reads "Joanne Cunningham". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Joanne E. Cunningham
President/CEO
Home Care Association of NYS