July 7, 2020

Ms. Seema Verma
Administrator, Centers for Medicare and Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program

Dear Ms. Verma,

On behalf of the Coalition to Transform Advanced Care (C-TAC), we appreciate the opportunity to provide comments on this interim final rule in regard to its effects on those living with serious illness.

C-TAC is a national non-partisan, not-for-profit organization dedicated to ensuring that all those living with serious illness, especially the sickest and most vulnerable, receive comprehensive, high-quality, person- and family-centered care that is consistent with their goals and values and honors their dignity. C-TAC is composed of over 140 national and regional organizations including patient and consumer advocacy groups, practitioners, health plans, faith-based and community organizations, and others who share a common vision of improving care for serious illness in the U.S.

We appreciate the changes in this interim rule in light of the COVID-19 pandemic. People with serious illness are at high risk for COVID-19 complications and this population will increase, unfortunately, as some who recover from COVID-19 will experience long-term or permanent complications. Others who deferred care for minor issues during the pandemic may subsequently develop more serious conditions. We therefore support the flexibility this interim rule affords providers and health care organizations.

However, as we commented on the first interim final rule, we also suggest that data be collected on the patient and provider impact of these interim changes and that this data
be studied to determine if some of the changes that are especially beneficial should be made permanent and extended beyond this emergency. C-TAC and our members believe that many of the care delivery and payment modifications CMS has created in response to the COVID-19 emergency would provide those with serious illness better and ongoing access to care. We speak in particular about the telehealth changes. The COVID-19 pandemic health emergency may unfortunately continue for some time and, even afterwards, health care delivery will likely be altered for the foreseeable future. This will most certainly be the case for services rendered to those with serious illness. Given this likelihood, we believe it is an appropriate time to begin discussions around steps that can be taken by CMS to establish permanent Medicare policies related to the ongoing use of telecommunications technology for this population. Further, it may be time to set in motion actions that will allow for proper monitoring of utilization of technology-based visits and for assessment of their impact on quality of care outside of the current public health emergency.

We recognize that making some of these permanent changes may fall outside of CMS’ authority and are therefore also advocating with Congress for legislation to support them as well.

Our comments on the following specific sections are:

**Scope of practice changes**
We support the changes to the Supervision of Diagnostic Tests by Certain Nonphysician Practitioners, Therapy Assistants Furnishing Maintenance Therapy, and Pharmacists Providing Services Incident to a Physicians’ Service both for the pandemic and on a permanent basis. If these providers can deliver quality care during a public health emergency, then they likely can do so when that emergency ends. Given that the U.S. population is aging and that those with serious illness could also increase as a result of COVID-19, it only makes sense to allow all providers to practice at the top of their license. We recommend that CMS monitor their performance during this pandemic so as to inform permanent scope of practice in future rule making.

**Opioid Treatment Programs (OTPs) – Furnishing Periodic Assessments via Communication Technology**
We support the delivery of opioid treatment via communication technology and recommend that it also be made permanent. COVID-19 is impacting those with substance use disorders and additional treatment programs will be needed going forward. It is also likely there won’t be enough providers to deliver those treatments in person. Virtual treatment will therefore be needed and will also allow people living in underserved areas to have access to these important services.

**Payment for Audio-Only Telephone Evaluation and Management Services**
This has been one of the most helpful changes made in this pandemic. However, these audio-only modalities are not only useful in this crisis but will be on an on-going basis. If patients can receive telehealth services in their homes, which should be made permanent, then we will need to also allow providers the flexibility to use readily available modalities
to interact with them there. Some patients have devices with Facetime or access to Skype or Zoom and so these should be continued as options beyond the COVID-19 pandemic. We also realize there are potential HIPPA issues with these modalities and encourage CMS to analyze information from the current waivers to see what future changes are needed and also to work with these technology providers to address privacy going forward. FaceTime, for example, is encrypted on both the receiving and sending end and so could be able to meet the HIPAA privacy needs going forward.

However, some beneficiaries lack access to smart phones, computers, and even broadband or cell phone service, and we therefore recommend allowing audio-only telehealth services to be permanent for these individuals. This would allow them equal access to these important services via a land line or simple phone if that is all that is available. This is also an equity issue and those in lower socioeconomic groups should not be penalized for not having access to technology with video capabilities. Helpfully, older Medicare beneficiaries are familiar with talking on the phone and so this type of interaction, particularly for encounters that don’t require visual or in-person information, can be very effective for them.

**COVID-19 Serology Testing**

We appreciate that this now falls under the Medicare benefit category of diagnostic laboratory tests and feel that this authorization should be extended for as long as the novel coronavirus is a factor in this country. People may need to learn of their serology status in the coming months and years and so this testing should continue to be covered as a diagnostic laboratory test.

**Requirement for Facilities to Report Nursing Home Residents and Staff Infections, Potential Infections, and Deaths Related to COVID-19**

We strongly support providing this information so that the public can be aware of COVID-19 in their area and make informed decisions regarding facility selection. We would also urge you to require reporting by race, ethnicity and socioeconomic factors to identify and track COVID-19 across these groups. We did not know COVID-19 disproportionately affected African Americans and Latinos until that data was collected and reported. Our only recommendation on this nursing home reporting is that any reporting requirements be aligned with county and state requirements so as to reduce administrative burden on these important facilities.

Thank you for the opportunity to comment on this interim final rule. If you have any questions, please contact Dr. Marian Grant, Senior Regulatory Advisor, C-TAC, at 443-742-8872 or mgrant@thectac.org.

Sincerely,

*Marian Grant*

Marian Grant, DNP, CRNP, ACHPN, FPCN
Senior Regulatory Advisor
The Coalition to Transform Advanced Care (C-TAC)
900 16th Street, NW, Suite 400
Washington, DC, 20006

---

iii https://support.apple.com/en-us/HT209110