HANYS®
Always There for Healthcare

Marie B. Grause, RN, JD • President

Headquarters
One Empire Drive, Rensselaer, NY 12144
518.431.7600

Washington, DC Office
499 South Capitol Street SW, Suite 410
Washington, D.C. 20003
202.488.1272

September 27, 2019

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1715-P
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Dear Ms. Verma:

Re: CMS-1715-P, Medicare Program; Opioid Treatment Programs, Physician Fee Schedule, Proposed Rule

The Healthcare Association of New York State, on behalf of our member non-profit and public hospitals, nursing homes, home health agencies and other healthcare providers, appreciates the opportunity to comment on the opioid treatment program provision contained within the Medicare Physician Fee Schedule proposed rule for calendar year 2020.

OTP Payment Bundles

The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act establishes a bundled payment to cover OTP services furnished during an episode of care.

Each bundle would be comprised of a drug and a non-drug component based on a continuous seven-day period. The drug component would be for opioid agonists and antagonists, including methadone (oral), buprenorphine (injection/oral/implant), naltrexone (injection) and drugs not otherwise specified for new treatments that the Food and Drug Administration may approve in the future.

The non-drug component would include substance use counseling, individual and group therapy, toxicology testing and drug administration by professionals as authorized under state law.

HANYS supports the structure of a unified payment comprised of both drug and non-drug components and a weekly bundle for the delivery of the OUD treatment services.

Section 2005 (c)(2)(w)(2) of the SUPPORT Act states that *"The Secretary may implement this subsection through one or more bundles based on the type of medication provided (such as buprenorphine, methadone, naltrexone, or a new innovative drug), the frequency of services, the scope of services furnished, characteristics of the individuals furnished such services, or other factors as the Secretary determines appropriate. In developing such bundles, the Secretary may consider payment rates paid to opioid treatment programs for comparable services under State plans under title XIX **or** under the TRICARE program under chapter 55 of title 10 of the United States Code."*

In this proposed rule, CMS proposes to base the bundled payment on the already established TRICARE rates for OTPs. Although CMS explains the challenges in standardizing payment rates across state plans for OTPs, the reliance on TRICARE rates is detrimental to states with Medicaid plans that have more robust treatment models and higher reimbursement. **As a result, HANYS strongly urges CMS to base the bundled payment rate on the higher of the state plan or TRICARE program.**

New York state has a long history of methadone treatment services, with a firmly established Medicaid program for service delivery via OTPs. Even so, OTPs in New York have not received a rate increase in more than ten years and are struggling to maintain their workforce. If CMS moves forward with its proposal and establishes a Medicare reimbursement rate that is unsustainable, the viability of these services would be threatened, despite the desire and need to continue delivering these services to Medicare beneficiaries.

This is a huge concern for our safety net hospitals with OTPs and for our hospitals with significant OTP volume, which are treating our most vulnerable populations. In addition, there are significant consequences if the Medicare rate for OTPs is less than the state's Medicaid plan reimbursement since commercial plans often look at the Medicare rate structure to set their provider payments. The introduction of Medicare reimbursement should increase access to treatment, not destabilize providers in certain states.

The TRICARE rate isn't a sustainable rate for all states and, therefore, CMS should consider our recommendation to allow the higher of the state plan rate or TRICARE program rate so it doesn't undermine the OTP system and states like New York can continue to treat the most vulnerable populations.

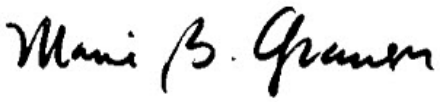
MEDICATION-ASSISTED TREATMENT IN THE EMERGENCY DEPARTMENT

As part of the proposed rule, CMS seeks comments on whether it should consider separate payment for MAT in the emergency department, including initiation and referral or follow-up care. EDs are frequently the first and sometimes only interaction for patients with an OUD. Furthermore, New York requires all hospitals to have policies and procedures in place for the appropriate use of MAT prior to patient discharge or for referrals for MAT evaluation when initiation of such treatment in an ED is not feasible.

Therefore, HANYS supports a future policy that would pay separately for MAT initiated in the ED and strongly encourages CMS to include such a proposal in next year's rule.

Again, thank you for the opportunity to comment on this proposed rule. If you have questions regarding our comments, please contact Kevin Krawiecki, vice president, fiscal policy, at kkrawiec@hanys.org or (518) 431-7634.

Sincerely,



Marie B. Grause, RN, JD
President

MBG:lw