HANYS®
Always There for Healthcare

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January 31, 2020

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-2393-P
200 Independence Avenue, S.W. Room 445-G
Washington, DC 20201

Re: CMS-2393-P, Medicaid Program; Medicaid Fiscal Accountability Regulation

Dear Ms. Verma:

The Healthcare Association of New York State, on behalf of our member nonprofit and public hospitals, nursing homes, home health agencies and other healthcare providers, welcomes the opportunity to comment on CMS' proposed Medicaid fiscal accountability regulation. This proposed rule would substantially change how state Medicaid programs are financed and how hospitals and other providers are reimbursed by Medicaid for care provided to beneficiaries.

The Medicaid program is a critical pillar supporting New York state's healthcare vision and goals. Through existing, legal and flexible Medicaid financing options, including intergovernmental transfers, provider taxes and other funding mechanisms, New York's Medicaid program has been a key driver in reducing the state's uninsured rate to 5%.

Today, more than one-quarter of all New Yorkers are insured by Medicaid or the Children's Health Insurance Program. From a care perspective, 73% of New York state nursing home residents, 41% of the state's outpatient visits and 52% of all babies delivered in the state are covered by Medicaid. New Yorkers across the state rely on Medicaid as an insurer and safety net.

In March, New York's innovative 1115 Delivery System Reform Incentive Payment waiver and partnership with the federal government will expire. This waiver, approved by CMS and funded via Medicaid financing mechanisms, allowed New York state to reinvest $8 billion of savings achieved through Gov. Cuomo's Medicaid Redesign Team in critical initiatives that improve how Medicaid services are delivered in the state.

As of June 30, 2018, the DSRIP waiver reduced avoidable hospitalizations by 21% and preventable hospital readmissions by 17%, which has resulted in better performance in other significant areas of care, such as behavioral health. The top five providers participating in the waiver program, known as Performing Provider Systems, have each reduced avoidable hospitalizations by nearly 40% in their respective regions. New York recently submitted a new 1115 DSRIP waiver renewal and extension request that seeks to build upon the goals already achieved.

Beyond Medicaid's financing mechanisms are the important tools states leverage to reimburse hospitals and other providers for care provided to Medicaid beneficiaries. In New York, Medicaid pays far below cost, reimbursing hospitals an estimated 70 cents for each dollar of care provided. Hospitals and other providers depend on supplemental funding and payment add-ons, whether Upper Payment Limit payments, Disproportionate Share Hospital funding, support for graduate medical education, DSRIP funding or other supplemental support, to maintain patient access to care.

New York's coverage and care results could not have been achieved without a federal partnership and use of existing, legal and flexible mechanisms New York and states across the country use to finance their Medicaid programs and pay for services provided to Medicaid beneficiaries.

HANYS and our members support the administration's goals of improving transparency and accountability in Medicaid to ensure the program is sustainable long into the future and we stand ready to help achieve those goals. However, this rule was developed without a sound policy basis or critical review of the reality of how states and providers are funded through the Medicaid program. We are deeply concerned about the impact this proposal could have on Medicaid beneficiaries. While CMS chose not to assess the financial impact of the rule, estimates from Manatt in partnership with AHA and state hospital associations, including HANYS, indicate the proposed changes could reduce Medicaid program funding nationally by between $37 billion and $49 billion (6% to 8%) annually. Hospitals could be subject to funding reductions of $23 billion to $31 billion (13% to 17%) annually.

Reductions of this unprecedented magnitude would no doubt impact beneficiaries, whether it be through loss of coverage, benefits and/or services. CMS must step back from this proposal to fully understand the interactions and impact on states, providers and beneficiaries.

HANYS aligns its view with AHA and many others that the rule as drafted would severely limit how states fund and pay hospitals and other providers for services in their Medicaid programs. We also assert that many of the rule's provisions are not legally permissible. HANYS fully supports and aligns our comments with those submitted by AHA (attached).

If these program funding limitations are pursued, the end result will be real limitations on access to healthcare services for those who rely on the promise of a healthcare safety net supported by the state and federal government. HANYS joins with AHA and many others to urge CMS to withdraw the proposed regulation in its entirety.

Thank you for the opportunity to provide comments. If you have any questions, contact Kevin Krawiecki, vice president, fiscal policy, at kkrawiec@hanys.org or (518) 431-7634.

Sincerely,

Marie B. Grause

Marie B. Grause, RN, JD
President

MBG:lw

Attachment