

March 5, 2018

Demetrios Kouzoukas  
Principal Deputy Administrator and Director, Center for Medicare  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

**Re: 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 (CMS-2017-0163)**

Dear Principal Deputy Administrator Kouzoukas:

On behalf of Tivity Health, a leading health improvement and wellness company, we appreciate the opportunity to provide feedback on the *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*<sup>1</sup> released by the Centers for Medicare & Medicaid Services (CMS) on February 1, 2018.

At Tivity Health, we partner with consumers, fitness and community centers, healthcare practitioners, and many of the nation's largest payers and employers to provide fitness and health improvement programs that support healthy living. For example, our SilverSneakers® program is offered as a supplemental benefit to MA plan enrollees to provide members with access to physical activity and a social network that promotes overall vitality. Tivity Health is dedicated to delivering a consumer experience that empowers individuals to lead healthy and productive lives.

***Health Related Supplemental Benefits***

Currently, CMS defines a supplemental health care benefit as an item or service (1) not covered by Original Medicare, (2) that is primarily health related (i.e. primary purpose of the item or service is to prevent, cure, or diminish an illness or injury), and (3) for which the MA plan must incur a non-zero direct medical cost.<sup>2</sup> CMS proposes to expand the scope of the primarily health related supplemental benefit standard to more broadly permit MA plans to offer additional supplemental benefits so long as they are healthcare benefits. Under the proposed interpretation of "primarily health related," a service or item 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. Supplemental

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<sup>1</sup> Part II of the Advance Notice and the Call Letter is available here <https://www.cms.gov/Medicare/Health-Plans/MedicareAdvtgSpecRateStats/Downloads/Advance2019Part2.pdf>.

<sup>2</sup> Section 30.1. *Chapter 4: Benefits and Beneficiary Protections*. Medicare Managed Care Manual.

benefits under this broader interpretation must be medically appropriate and ordered by a licensed provider as part of a care plan if not directly provided by one.

We urge the agency to include coverage of therapeutic massage as part of this broadening of available supplemental benefits. Over the past 25 years, Tivity Health has developed clinical and operational expertise in managing specialty health benefits and networks, including therapeutic massage, chiropractic services, physical therapy, occupational therapy, speech therapy, acupuncture and other complementary and alternative medicine (CAM) services. Based on this experience, we strongly support the agency's proposal to better meet the needs of patients by allowing MA plans to exercise more flexibility in the types of services that can be offered as supplemental benefits. However, under current CMS subregulatory guidance, MA plans are expressly prohibited from offering therapeutic massage, even if performed by a licensed massage therapist, as a supplemental benefit to its members.<sup>3</sup>

Research over the past decade establishing the health benefits of therapeutic massage has greatly expanded, and the National Institutes of Health (NIH) National Center for Complementary and Integrative Health has explicitly stated that there is scientific evidence that massage may help with back pain and may improve quality of life for people with depression, cancer, and HIV/AIDS.<sup>4</sup> A growing body of evidence has demonstrated that therapeutic massage is beneficial for a variety of populations and clinical conditions. Specifically, therapeutic massage has been proven to aid in decreasing blood pressure and stress; improving sleep patterns and decreasing insomnia; improving circulation and reduced muscle tension; and improving shoulder range of motion.<sup>5</sup> Research has also indicated that cancer patients who receive therapeutic massage experience decreased pain, anxiety, depression, fatigue, and chemotherapy-related physical symptoms.<sup>6</sup> Potential benefits of massage for pain indications include labor, shoulder, neck, and back pain,

<sup>3</sup> Section 30.4. *Chapter 4: Benefits and Beneficiary Protections*. Medicare Managed Care Manual.

<sup>4</sup> Massage Therapy for Health Purposes. National Center for Complementary and Integrative Health (June 2016). Available at <https://nccih.nih.gov/health/massage/massageintroduction.htm#hed1>.

<sup>5</sup> Yeun, Young-Ran. "Effectiveness of massage therapy on the range of motion of the shoulder: a systematic review and meta-analysis." *Journal of physical therapy science* 29.2 (2017): 365-369. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5333006/>; Miake-Lye, Isomi, et al. "Massage for Pain: An Evidence Map." (2016) [Department of Veterans Affairs: Evidence-based synthesis program reports]. Available at <https://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0091041/>.

<sup>6</sup> *National comprehensive Cancer Network: Clinical practice guidelines in oncology: adult cancer pain v1*, 2007. Available at [www.nccn.org](http://www.nccn.org); Cassileth BR, et al. *Complementary therapies and integrative oncology in lung cancer: ACCP evidence-based clinical practice guidelines (2<sup>nd</sup> edition)*, Chest, 132: 340S-354S; National comprehensive Cancer Network: *Clinical practice guidelines in oncology: cancer related fatigue v4*, 2007. Available at [www.nccn.org](http://www.nccn.org); Weinrich SP, Weinrich MC. *The effect of massage on pain in cancer patients*, *Appl Nurs Res*, 3: 140-145, 1990.; Wilkinson SM, et al. *Effectiveness of aromatherapy massage in the management of anxiety and depression in patients with cancer: a multi-center randomized controlled trial*. *J Clin Oncol*, 25:532-538.; Smith MC, et al. *Outcomes of therapeutic massage for hospitalized cancer patients*. *J Nurs Scholar* 34:257-262, 2002.; Post-White J, et al. *Therapeutic massage and healing touch improve symptoms in cancer*. *Integr Cancer Ther* 2:332-344, 2003.; Cassileth BR, Vickers AJ. *Massage therapy for symptom control: outcome study at a major cancer center*. *J Pain Symptom Manage* 28:3, 2004.; Fellowes D, et al. *Aromatherapy and massage for symptom relief in patients with cancer*. *Cochrane Database Syst Rev*. 2:CD002287, 2004.

fibromyalgia, and temporomandibular disorder.<sup>7</sup> Patients who use alternative therapies, such as therapeutic massage, rather than opioids also have significantly lower rates of adverse side effects of treatment including 1.5 times lower rates of nausea, 1.3 times fewer incidences of severe itching, and 1.6 times fewer reports of dizziness.<sup>8</sup> Notably, the American College of Physicians' clinical practice guidelines recommend that clinicians and patients utilize non-pharmacological treatments, including therapeutic massage, to address acute, subacute, and chronic low back pain.<sup>9</sup>

As the country continues to combat the opioid crisis, we believe it is critical for CMS to both assess and reward successful use of non-pharmacological pain management interventions. More than half a million people have died from an overdose with six out of ten deaths involving an opioid over the past 15 years.<sup>10</sup> Pain management is a challenging issue due to a broad spectrum of patient conditions and needs. Therapeutic massage can serve as an effective treatment option for patients with chronic pain without the risks and expense associated with prescription drugs, especially opioids, and invasive procedures.<sup>11</sup> Moreover, recent polling shows that 78 percent of Americans prefer to try drug-free pain management prior to using prescription drugs.<sup>12</sup>

The health benefits of therapeutic massage are on par with complementary medicine modalities, including chiropractic and acupuncture. As a result, the scientific literature and the CDC's National Center for Health Statistics often group therapeutic massage alongside treatments that are currently covered by Medicare, such as chiropractic.<sup>13</sup> Further, certain Medicaid programs, such as those in Florida and Rhode Island, have already begun to recognize the value of therapeutic massage by covering alternative pain management treatments including therapeutic massage.<sup>14</sup>

Moreover, the prohibition on covering therapeutic massage as a supplemental benefit may disproportionately affect low-income beneficiaries who are less likely to be able to afford massage therapy on their own. As a result, these beneficiaries may gravitate towards prescription drugs over

<sup>7</sup> Miake-Lye, Isomi, et al. "Massage for Pain: An Evidence Map." (2016) [Department of Veterans Affairs: Evidence-based synthesis program reports]. Available at <https://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0091041/>.

<sup>8</sup> Duke University Medical Center. "Acupuncture Reduces Pain, Need For Opioids After Surgery." ScienceDaily. ScienceDaily, 18 October 2007. Available at [www.sciencedaily.com/releases/2007/10/071016181238.htm](http://www.sciencedaily.com/releases/2007/10/071016181238.htm).

<sup>9</sup> Qaseem A, et al. Noninvasive Treatments for Acute, Subacute, and Chronic Low Back Pain: A Clinical Practice Guideline from the American College of Physicians. *Ann Intern Med* 166:514–530, 2017.

<sup>10</sup> CDC. Wide-ranging online data for epidemiologic research (WONDER). Atlanta, GA: CDC, National Center for Health Statistics; 2016. Available at <http://wonder.cdc.gov>.

<sup>11</sup> Crawford, Cindy, et al. "The impact of massage therapy on function in pain populations—A systematic review and meta-analysis of randomized controlled trials: Part I, patients experiencing pain in the general population." *Pain Medicine* 17.7 (2016): 1353-1375.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4925170/>.

<sup>12</sup> The Gallup-Palmer College of Chiropractic Annual Report (October 2017). Available at [https://www.palmer.edu/uploadedFiles/Pages/Alumni/Palmer\\_Gallup\\_AnnualReport\\_2017-final.pdf](https://www.palmer.edu/uploadedFiles/Pages/Alumni/Palmer_Gallup_AnnualReport_2017-final.pdf).

<sup>13</sup> Clarke, Tainya C., et al, Use of Complementary Health Approaches for Musculoskeletal Pain Disorders Among Adults: United States, 2012, National Health Statistics Reports (October 2016). Available at <https://www.cdc.gov/nchs/data/nhsr/nhsr098.pdf>.

<sup>14</sup> National Pain Strategy: A Comprehensive population Health-Level Strategy for Pain. National Institutes of Health. Available at [https://iprcc.nih.gov/sites/default/files/HHSNational\\_Pain\\_Strategy\\_508C.pdf](https://iprcc.nih.gov/sites/default/files/HHSNational_Pain_Strategy_508C.pdf).

non-pharmacological treatments that are not offered by MA plans due to economic constraints and, in turn, increase the use of opioids to manage pain.<sup>15</sup>

CMS states that the primary purpose of an item or service will be determined by national typical usages of most people using the item or service and by community patterns of care. Also, to be considered healthcare benefits, supplemental benefits must focus directly on an enrollee's healthcare needs. A therapeutic massage would be ordered by a licensed provider and would be performed by a licensed practitioner. We urge the agency to be cognizant of this distinction when evaluating the primary purpose of an item or service based on the national typical usage of therapeutic massage.

For these reasons, we urge the agency to take further action in implementing this proposal and give MA plans the flexibility to offer therapeutic massage by a licensed practitioner. Therefore, we ask CMS to clarify that MA plans may offer therapeutic massage as a supplemental benefit in the forthcoming detailed guidance for MA plans.

### ***Medicare Advantage (MA) Uniformity Flexibility & Medicare Advantage (MA) Segmented Service Area Options***

In the Draft Call Letter, CMS proposes to permit MA organizations the ability to reduce cost sharing for certain covered benefits, offer specific tailored supplemental benefits, and offer lower deductibles for enrollees that meet specific medical criteria, provided that similarly situated enrollees are treated the same and enjoy the same access to these targeted benefits. We support CMS' proposal to allow MA plans to exercise greater flexibility in the benefits provided to consumers. Tivity also supports CMS's proposal to allow MA plans to vary supplemental benefits, in addition to premium and cost sharing, by segment, as long as the benefits, premium, and cost sharing are uniform within each segment of an MA plan's service area.

We are encouraged by CMS interest in providing MA plans with flexibility to offer benefits tailored to the needs of patients. We believe the proposals will collectively increase choice, improve care quality, and reduce cost to the healthcare system overall. Often, individuals with the same condition require different treatment due to a variety of factors including the presence of comorbidities, medical history, and geographic limitations. Therefore, the ability to meaningfully treat patients and empower them to lead healthier, more productive lives is dependent on the extent to which health care can be individualized to meet the patients' specific circumstances.

Also, as CMS implements these proposals, we urge CMS to ensure that premiums or cost sharing requirements are not imposed for supplemental benefits that currently do not require them. Imposing such requirements would reduce access to these benefits and is contrary to the goals of the agency's proposals.

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<sup>15</sup> Id.

***Enhancements to the 2019 Star Ratings and Future Measurement Concepts***

CMS states that it is exploring additional measurement concepts such as functional status and use of non-pharmacological or non-opioid pain management interventions. CMS is interested in stakeholder feedback about how these “upstream” concepts can inform measurement of quality of care and how measurement of these concepts might help CMS assess MA contracts’ role in and capacity to affect the quality of care. The agency is interested in stakeholder feedback on how these concepts can be measured without adding undue burden on plans or providers. Tivity supports CMS’s proposal because it will both promote and allow for better tracking of the use of non-pharmacological treatments for pain, such as therapeutic massage.

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Thank you for your consideration of these comments. Should you have any questions regarding this letter, please contact me at 615-202-2029.

Sincerely,

*Vicki Shepard*

Vicki Shepard, A.C.S.W., M.P.A.  
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cc: Jennifer Wuggazer Lazio, F.S.A.,  
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