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December 18, 2017

Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-4182-P
PO Box 8013
Baltimore, MD 21244-8013

Submitted Electronically

Re: Medicare Program; Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program (CMS-4182-P)

Dear Administrator Verma:

On behalf of our more than 100,000 member physical therapists, physical therapist assistants, and students of physical therapy, the American Physical Therapy Association (APTA) is pleased to submit the following comments on the Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program proposed rule. APTA's goal is to foster advancements in physical therapist practice, research, and education. The mission of APTA is to further the profession's role in the prevention, diagnosis, and treatment of movement dysfunctions and enhancement of the physical health and functional abilities of members of the public. Physical therapists perform evidenced-based examinations, screenings, evaluations, and interventions for musculoskeletal, neurological, cardiovascular and pulmonary, and integumentary conditions and provide patient-centered care that focuses on function and mobility to improve the quality of life for children and adults.

APTA strongly believes that Medicare Advantage (MA) enrollees should have access to high-quality providers in their communities, in both urban and rural areas. While we appreciate that CMS is making revisions to MA and Medicare Part D program policies to reduce burden and increase beneficiary access, we are disappointed that CMS failed to incorporate any of our suggestions in our response to the agency's request for information. Additionally, we have concerns that within the rule, CMS is proposing to allow plan sponsors to limit "at-risk" beneficiaries' access to coverage of controlled substances, without also putting forth policies that promote increased access to effective nonpharmacological treatment alternatives such as physical therapy.

Physical therapists and other nonphysician providers are uniquely positioned to improve patient access to safe and effective pain management interventions. Physical therapists play an important role in managing acute and chronic pain by administering nonpharmacological treatments that include therapeutic exercise, a dose-based, patient-specific prescription designed to address musculoskeletal, neuromuscular, and/or cardiovascular dysfunction; manual therapy, a combination of highly skilled techniques designed to promote increased joint flexibility and normal movement patterns; therapeutic activities to ensure safe and efficient performance of functional activities; and mobility training to optimize meaningful movement. Physical therapists also may employ physical agents as adjunctive tools in pain management. Physical therapists offer an alternative to opioids and other pharmacological options for long-term pain management with a focus on functional improvement and better tolerance for activities of daily living, and helping patients to understand the underlying cause of and factors contributing to their pain.

Moreover, while we are pleased that CMS is proposing to increase flexibility in the MA uniformity requirements, we urge the agency to be cautious so that beneficiaries who are considered to be “healthier” do not lose access to care as a result of this change in policy. Every effort should be made to keep this population of seniors healthy and actively engaged to reduce current and future health care costs.

APTA appreciates the opportunity to provide feedback and asks the agency to consider our detailed comments below.

Flexibility in MA Uniformity Requirements

As CMS undertakes modifications to the MA uniformity requirements, we urge the agency to institute safeguards to ensure that healthier members of the population are not inappropriately harmed.

APTA supports CMS’s proposal to give MA plans the flexibility to offer targeted supplemental benefits for their most medically vulnerable enrollees. However, we have considerable concerns as to how this change in policy may impact the “less vulnerable” enrollees. Existing MA plans charge unreasonable copays to enrollees for therapy services. Such copays create a barrier to access and significant financial burden for those requiring multiple physical therapy visits over an extended period of time to properly recover from an injury or alleviate symptoms related to a chronic condition. By no longer requiring MA plans to afford all enrollees with the same supplemental benefits at the same price, we have concerns that plans will attempt to offset their costs by imposing higher cost-sharing on its healthier enrollees.

The majority of enrollees across the health spectrum already encounter access barriers due to copay and cost-sharing requirements. Imposing higher cost sharing on a portion of the enrollees to offset reductions in cost sharing for others will result in significant adverse financial and treatment implications. Therefore, we urge CMS to be mindful of

this very real consequence, and develop and implement the uniformity policy in such a way that avoids it.

To that end, CMS must be more mindful of copay increases imposed by MA plans and place reasonable limits on copays for enrollees seeking therapy services. Consideration must be given to supporting individuals at high risk, managing individuals with rising risk, and sustaining individuals at low risk.

Frequently Abused Drugs

Designating opioids as frequently abused drugs requires CMS to develop policies that promote access to nonpharmacological treatment options such as physical therapy.

APTA understands and appreciates that CMS is issuing policies allowing Part D plan sponsors to adopt drug management programs that address the overutilization of frequently abused drugs. We support CMS's proposal to require that Part D sponsors intending to limit access to coverage for frequently abused drugs provide an initial written notice to the beneficiary that describes the prescription drug abuse resources to which the beneficiary has access. However, while providing beneficiaries with a notice of the available prescription drug abuse services is a step in the right direction, it will not turn the tide on addiction, particularly to opioids. APTA strongly recommends that, in addition to requiring the description of available drug abuse resources, such as counseling, CMS also require sponsors to include information on the relevant nonpharmacological treatment options that can help resolve the underlying issue(s).

We are alarmed that within the rule, the agency fails to propose how it intends to increase access to nonpharmacological treatment options while restricting access to frequently abused drugs. As the health care industry moves forward in the shift to value-based care, it is imperative that patients have access to nonpharmacological treatments. CMS indicates within the proposed rule that it is focusing on the opioid epidemic; however, the agency is missing a key opportunity to truly effect change. In conjunction with limiting access to certain drugs, CMS must also develop and promote accompanying policies that *increase* access to nonpharmacological alternatives. By doing so, CMS will ensure it gives enrollees adequate options to receive medically necessary, appropriate care. For example, within the rule, CMS proposes to require the Part D sponsor's clinical staff to conduct case management for each potential at-risk beneficiary and perform a series of related activities. Thus, we recommend that for those at-risk beneficiaries who suffer from pain, CMS should require the sponsor's clinical staff to work with the beneficiary's prescribers to develop a nonpharmacological, multidisciplinary pain-management treatment plan.

The opioid crisis will not be resolved solely by restricting access to drugs. Rather, it requires an interdisciplinary approach that focuses on nonpharmacological, multidisciplinary management and interventions for acute and chronic pain. APTA is committed to fighting the opioid epidemic and positively influencing public health and well-being by enhancing prescriber, patient, and policymaker understanding of safe and

effective pain management through interdisciplinary care to improve movement and function.

CMS should publicly support and promote team approaches that focus on comprehensive nonpharmacological multidisciplinary pain management plans. Such plans that evaluate and treat the different factors influencing the presence of pain, and also the underlying causes of addiction, will enhance the effectiveness, efficiency, and safety of the care delivered. Additionally, this approach may promote greater patient engagement and educate patients and providers on ways to address pain through increased movement, which can decrease the incidence of overuse of pain medication and prevent abuse. This approach also could have a positive impact on outcomes among patients who receive treatment for mental and behavioral health conditions.

Unfortunately, barriers to interdisciplinary care programs or treatments for acute or chronic pain continue to exist, including geography, lack of education and training, and payment and coverage. While opioid addiction has affected all communities, rural and underserved areas have been disproportionately harmed by the increased use of opioids. We encourage the agency to develop policies that will help to increase access in those medically underserved and rural communities and identify ways to incentivize the broader delivery of care, such as expanded student loan repayment programs. Given the seriousness of the opioid crisis (and, more broadly, the chronic pain crisis), CMS should better support the delivery of pain management services to patients via telehealth, as this will only help to expand the availability of chronic pain treatment options and reduce the likelihood of future opioid addiction.

Moving forward, it is imperative that CMS acknowledge the important role that physical therapists and other nonphysician health care professionals play in the prevention and treatment of acute and chronic pain. The solution requires more than limiting access to drugs. Rather, CMS should adopt policies that incentivize MA plans to promote collaboration, assessment, and care coordination across multiple disciplines. If CMS continues to remain silent on nonpharmacological treatment options that serve as an alternative to drugs, the agency only reinforces the idea that pharmaceuticals are the only option—an option with significant potential harm.

We encourage CMS to ignite the much-needed paradigm shift away from opioid overutilization and toward safe and effective nonpharmacological treatments, when appropriate. Such actions will not only move this nation forward in its efforts to improve pain management but also foster and promote safe opioid prescribing.

Maximum Out-of-Pocket Limit for Medicare Parts A and B Services

CMS must be mindful of the cost sharing being imposed on MA enrollees whose conditions require physical therapy services.

APTA appreciates that in 2015 CMS set a maximum out-of-pocket (MOOP) limit for physical therapy services at \$40. As CMS considers modifying the MOOP limits in the

future, we encourage the agency to be mindful of the cost sharing being imposed on enrollees who need physical therapy. Enrollees typically require multiple physical therapy visits over an extended period of time to properly recover from an injury or alleviate symptoms related to a chronic condition. High cost-sharing requirements create a significant financial burden for beneficiaries in need of multiple visits for a full recovery. Patients who fail to receive the rehabilitation care they need from the physical therapist may be more likely to require higher-cost interventions to remain functional. This can result in the development or recurrence of severe functional impairments and downstream costs including surgery, imaging, and pharmacy. Therefore, we recommend that in setting a MOOP limit for physical therapy services in the future, the agency take into consideration the financial implications of multiple physical therapy visits.

Improving the Customer Experience

CMS must develop policies that reduce barriers to access, drive down costs, and improve the quality of care within the MA program.

APTA strongly encourages the agency to develop additional policies that reduce unnecessary regulations and improve access to physical therapy within the MA program. MA enrollees should have direct access to the services of a physical therapist without being subject to prior authorization requirements. Currently, MA enrollees must undergo a prolonged, burdensome process to obtain treatment authorizations. A delay in authorization could severely hinder a patient's recovery, requiring physical therapists and other providers to decide between furnishing an uncovered service at their own expense and risking the patient's health and well-being by waiting for a plan to authorize medically necessary care.

Allowing MA enrollees to directly access physical therapist care is a cost-effective alternative as it eliminates additional physician visits, prevents more costly interventions such as hospitalization or surgery, and allows patients more timely access, thus improving health outcomes and reducing overall health care costs. At a minimum, we encourage CMS to require MA plans to furnish same-day authorizations. By doing so, MA plans would enhance patient access to timely, high-quality care that is appropriate for the patient's condition, avoid preventable adverse events, and save plans, providers, and patients from expending resources on unnecessary services.

CMS should develop policies that incentivize MA plans to increase enrollee access to preventive services.

Expanding the capacity of preventive services and increasing their availability to the MA population will have a powerful effect on the health of enrollees, their families, and communities. For example, to reduce the risk of functional decline, falls, and hospitalizations, we encourage CMS to invest in and promote preventive services, including an annual "wellness" visit by a physical therapist. Physical therapists have the necessary education, experience, and expertise to provide a broad health screening and to track the patient's health status over time. Such a screening may also lead to a referral for a physical therapist evaluation and treatment or to another health care professional

for potential problems identified during the visit that could have escalated—requiring more costly treatment later—had they remained unchecked. Moreover, visiting a physical therapist annually promotes optimal health, wellness, and fitness, and slows the progression of impairments, functional limitations, and disabilities through early identification and management of risk.

We encourage CMS to more closely evaluate the importance of preventive and risk-management services for MA enrollees and work with plans to expand access to such services across states and communities.

Conclusion

APTA thanks CMS for the opportunity to comment on the Contract Year 2019 Policy and Technical Changes to the MA Program proposed rule. We are eager to engage with the agency and look forward to working with CMS in making revisions to the policies proposed within this rulemaking to ensure that MA enrollees have access to medically necessary physical therapy services. Should you have any questions or need additional information, please contact Kara Gainer, director of regulatory affairs, at karagainer@apta.org or 703/706-8547.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, reading "Sharon L. Dunn". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Sharon L. Dunn, PT, PhD
Board-Certified Orthopaedic Clinical Specialist
President

SLD: krg