



February 10, 2023

Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

**RE: CMS–4201–P - Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, Medicare Parts A, B, C, and D Overpayment Provisions of the Affordable Care Act and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications**

Dear Administrator Brooks-LaSure:

The American Academy of Nursing (Academy) is pleased to offer the following comments in response to the December 14, 2022, proposed rule regarding revisions to regulations governing Medicare Advantage (MA or Part C), the Medicare Prescription Drug Benefit (Part D), Medicare cost plans and Programs of All-Inclusive Care for the Elderly (PACE). The Academy serves the public and the nursing profession by advancing health policy and practice through the generation, synthesis, and dissemination of nursing knowledge. With more than 2,900 Fellows, the Academy represents nursing's most accomplished leaders in policy, research, administration, practice, and academia. They have been recognized for their extraordinary contributions to the promotion of the public's health through evidence and innovation.

The Academy's vision of *Healthy Lives for All People* is foundational to our mission of improving health and achieving health equity by impacting policy through nursing leadership, innovation, and science. To that end, our comments will be focused on the following five areas in the proposed rule:

- Advancing Health Equity in the Medicare Advantage Program;
- Telehealth and Digital Health Literacy;
- Improving Access to Behavioral Health;
- Provider Networks; and
- Provider Vaccinations for PACE Programs.

**Advancing Health Equity in the Medicare Advantage Program**

We commend CMS's commitment to advancing health equity with attention to individuals from underserved and marginalized communities. The Academy supports policies that eliminate health inequities and disparities and promote patient-centered as well as culturally safe and supportive care. We applaud the agency's expansion of the list of populations receiving culturally and linguistically appropriate care to include those *(1) with limited English proficiency or reading skills; (2) of ethnic, cultural, racial, or religious minorities; (3) with disabilities; (4) who identify as lesbian, gay, bisexual, or other diverse sexual orientations; (5) who identify as transgender, nonbinary and other diverse gender identities, or people who were born intersex; (6) who live in rural areas and other areas with high levels*

of deprivation; and (7) otherwise adversely affected by persistent poverty or inequality.<sup>1</sup> We encourage CMS to also emphasize the need to provide culturally safe and supportive care in addition to culturally and linguistically appropriate care. In addition, CMS should consider strategies to build these components into coverage within the Medicare Advantage program. We recommend revising the sixth population in the list that reads “those who live in rural areas and other areas with high levels of deprivation” to include under-resourced areas in addition to or in place of “areas with high levels of deprivation.” Rurality has a direct impact on health, notably with access to care.<sup>2</sup> The inclusion of under-resourced areas would help to clarify this point. The Academy further recommends CMS consider adding those with multiple chronic conditions, those with serious mental illness (SMI), as well as those who are unhoused to the population list. An estimated 85% of older adults have at least one chronic health condition and 60% have at least two chronic conditions<sup>3</sup>, making this a significant population of concern for the Medicare Advantage program. Furthermore, approximately 20% of older adults will experience mental health issues and up to 4.8% will have an SMI, placing them at higher risk for adverse health outcomes.<sup>4</sup> Rising homelessness among older adults is a concern that must be addressed.<sup>5</sup> Finally, we encourage CMS to consider the intersectionality of these categories and how strategies may be implemented to most effectively address populations who are in two or more categories. CMS should further explore the costs and benefits of expanding the list of populations receiving culturally safe and supportive care. There is currently a lack of clarity on reimbursement procedures for codes involving care for patients from the above-identified populations which CMS should create and/or clarify.

### Telehealth and Digital Health Literacy

The Academy has long supported telehealth expansion to increase access to care and increase health literacy. We commend CMS for promoting digital health literacy to improve health outcomes in the proposed rule. The Academy is on record recommending the agency continue to evaluate ways to expand telehealth access to Medicare and Medicaid beneficiaries while also noting the health equity challenge this poses, with greater investment in technological infrastructure needed to ensure that all individuals, regardless of location or other structural barriers, can access care.<sup>6 7 8</sup> We applaud the Administration’s previous actions to promote broadband access through programs such as the Affordable Connectivity Program (ACP). Additionally, the Academy appreciates the requirement put forth through this proposed rule to have MA organizations develop and maintain procedures to identify and offer digital health education to enrollees with low digital health literacy. In the practice setting,

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<sup>1</sup> Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024 Proposed Rule (CMS-4201-P). 87 FR 79452 (December 27, 2022).

<sup>2</sup> *About Rural Health*. Centers for Disease Control and Prevention (CDC). Retrieved February 3, 2023 from <https://www.cdc.gov/ruralhealth/about.html>.

<sup>3</sup> *Talking with Your Older Patients*. National Institute on Aging. Retrieved February 3, 2023, from <https://www.nia.nih.gov/health/talking-your-older-patients>.

<sup>4</sup> *Older Adults Living with Serious Mental Illness: The State of the Behavioral Health Workforce*. Substance Abuse & Mental Health Services Administration (May 2019). <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-olderadults-smi.pdf>.

<sup>5</sup> AARP. *The Graying of America’s Homeless: An Alarming Trend*. Retrieved January 30, 2023 from <https://www.aarp.org/home-family/your-home/info-2022/americas-homeless-over-50.html>.

<sup>6</sup> American Academy of Nursing. (2020, June 26). *Letter to the Senate Health, Education, Labor, and Pensions Committee Regarding Recommendations on Pandemic Preparedness*.

[https://higherlogicdownload.s3.amazonaws.com/AANNET/c8a8da9e-918c-4dae-b0c6-6d630c46007f/UploadedImages/FINAL\\_AAN\\_HELP\\_Committee\\_Pandemic\\_Response.pdf](https://higherlogicdownload.s3.amazonaws.com/AANNET/c8a8da9e-918c-4dae-b0c6-6d630c46007f/UploadedImages/FINAL_AAN_HELP_Committee_Pandemic_Response.pdf)

<sup>7</sup> American Academy of Nursing. (2020, October 5). *Comments on the FY 2021 Physician Fee Schedule Proposed Rule*. [https://higherlogicdownload.s3.amazonaws.com/AANNET/c8a8da9e-918c-4dae-b0c6-6d630c46007f/UploadedImages/FINAL\\_CMS\\_Response\\_Letter\\_Draft.pdf](https://higherlogicdownload.s3.amazonaws.com/AANNET/c8a8da9e-918c-4dae-b0c6-6d630c46007f/UploadedImages/FINAL_CMS_Response_Letter_Draft.pdf)

<sup>8</sup> American Academy of Nursing. (2022, April 4). *Letter to the Senate Health, Education, Labor, and Pensions Committee Regarding PREVENT Pandemics Act*.

[https://higherlogicdownload.s3.amazonaws.com/AANNET/c8a8da9e-918c-4dae-b0c6-6d630c46007f/UploadedImages/PREVENT\\_Pandemics\\_Act\\_Support\\_Letter.pdf](https://higherlogicdownload.s3.amazonaws.com/AANNET/c8a8da9e-918c-4dae-b0c6-6d630c46007f/UploadedImages/PREVENT_Pandemics_Act_Support_Letter.pdf)

however, the proposed rule raises questions on how digital health literacy will be defined and who ultimately would be responsible for ensuring patients understand digital health literacy. The Academy recommends the agency provide clear direction on this issue in the final rule. Furthermore, CMS should consider the sustainability of such directives given that infrastructure to support digital health literacy initiatives may be out of reach for many providers. To promote the successful implementation of these procedures, we encourage CMS to consider evidence-based approaches to clinician training such as Project ECHO (Extension for Community Healthcare Outcomes).<sup>9</sup>

An additional concern on the use of digital health literacy screening tools relates to their applicability and reliability with the relevant populations. Telehealth has been adopted by health systems in myriad ways with no set standards on its implementation (phone, tablet, secured platforms, etc.) and facilities have varying capabilities to sustain telehealth. Furthermore, some settings—especially long-term care facilities—often serve a large percentage of patients with dementia or other cognitive impairments which may make digital health literacy an unfeasible goal. We encourage CMS to consider the impact of implementing digital literacy education in relation to the Medicare Advantage enrollee population and further consider which elements of telehealth will be promoted and covered. In previous comments, we have encouraged CMS to create codes that allow for audio-only telehealth services in addition to video telehealth services.<sup>7</sup>

### **Improving Access to Behavioral Health**

Behavioral health access is critical to achieving healthy lives for all people. The Academy commends CMS for proposing new provider specialty types to provide behavioral health services to Medicare Advantage enrollees. We affirm the importance of nurses in the care of persons experiencing behavioral health issues and opioid use disorder and call for the expanded ability of advanced practice registered nurses (APRNs)<sup>10</sup> to practice to the full extent of their education and training—the top of their licensure. We appreciate that clinical nurse specialists and nurse practitioners may provide mental health and substance use disorder services in Medicare programs. However, the current proposed rule calls out Clinical Psychology Licensed Clinical Social Workers and we recommend CMS also explicitly call out all APRNs as a highlighted provider type in behavioral health. Furthermore, CMS needs to implement stronger support for Medicare Advantage case managers to better connect enrollees with behavioral health services. The agency should also incorporate trauma-informed care (TIC) principles into behavioral health coverage and access for all enrollees. Addressing the root causes and impacts of trauma will be essential to ensuring the health and well-being of the older adult population Medicare Advantage serves.

### **Provider Networks**

We commend CMS for taking action to ensure Medicare Advantage beneficiaries receive timely access to care. To ensure timely access, these programs must have robust provider networks that include APRNs as more than 40% of Medicare beneficiaries receive their care from them. The Academy is on record in support of APRNs being able to practice to the top of their licensure.<sup>11</sup> CMS must include all types of APRNs in the network as well as fully recognize and account for all the services that each type of APRN provides. Ensuring APRNs are included in a diverse network of providers is in line with CMS's strategic plan to advance health equity. Additionally, this is consistent with the conclusion from the National Academy of Medicine (NAM) report, *The Future of Nursing 2020-2030: Charting a Path to*

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<sup>9</sup>Agency for Healthcare Research and Quality. *Project ECHO*. <https://www.ahrq.gov/patient-safety/settings/multiple/project-echo/index.html>.

<sup>10</sup> APRNs include certified nurse-midwives (CNMs), certified registered nurse anesthetists (CRNAs), clinical nurse specialists (CNSs) and nurse practitioners (NPs).

<sup>11</sup> American Academy of Nursing. (2020, January 17). *RE: Request for Feedback on Scope of Practice, CMS*. [https://higherlogicdownload.s3.amazonaws.com/AANNET/c8a8da9e-918c-4dae-b0c6-6d630c46007f/UploadedImages/2020\\_01\\_17\\_FINAL\\_AAN\\_CMS\\_Comments\\_RE\\_Request\\_for\\_Feedback\\_on\\_Scope\\_of\\_Practice.pdf](https://higherlogicdownload.s3.amazonaws.com/AANNET/c8a8da9e-918c-4dae-b0c6-6d630c46007f/UploadedImages/2020_01_17_FINAL_AAN_CMS_Comments_RE_Request_for_Feedback_on_Scope_of_Practice.pdf)

*Achieve Health Equity*, which found that eliminating restrictions on the scope of practice of APRNs and registered nurses (RNs) “will increase the types and amount of high-quality health care services that can be provided to those with complex health and social needs, improving access to care and health equity.”<sup>12</sup>

### **Provider Vaccinations for PACE**

The Academy is on record in support of nurses adhering to the recommended vaccine schedule for health professionals.<sup>13</sup> When nurses work directly with patients or handle fluids, they are more likely to get — and spread — infectious diseases. Nurses should be fully vaccinated following the recommended vaccine schedule to ensure the health and well-being of patients, their families, and the community, especially for vulnerable populations such as older adults participating in PACE programs. The proposed rule requested responses related to whether the PACE program and organizations should follow the Advisory Committee on Immunizations Practices (ACIP) vaccine schedule for health care providers or follow a set of vaccinations for a set of specific infectious diseases. The Academy supports using the ACIP schedule of vaccinations as the committee can quickly add recommended vaccines to the vaccination schedule as new infectious diseases emerge.<sup>14</sup>

The Academy thanks CMS for the opportunity to provide comments on the proposed rule on the Medicare Advantage Program, the PACE program, and health information technology standards and implementation specifications. If we can be of any assistance to you or your staff, please do not hesitate to contact the Academy’s Senior Director of Policy, Christine Murphy, at [cmurphy@aannet.org](mailto:cmurphy@aannet.org) or 202-777-1174.

Sincerely,



Kenneth R. White, PhD, AGACNP, ACHPN, FACHE, FAAN  
President

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<sup>12</sup> National Academies of Sciences, Engineering, and Medicine. 2021. *The Future of Nursing 2020-2030: Charting a Path to Achieve Health Equity*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25982>.

<sup>13</sup> American Academy of Nursing. (2020, April 30). *Immunization is Key to Eliminating Vaccine-Preventable Diseases*. <https://www.aannet.org/news/policy-news/immunizations-position-statement>

<sup>14</sup> <https://www.cdc.gov/vaccines/adults/rec-vac/hcw.html>