Business Group on Health

June 22, 2021

Submitted electronically via: www.regulations.gov

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1752-P
P.O. Box 8013
Baltimore, MD 21244-1850

Re: CMS-1752-P – Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and others.

Dear Sir or Madam:

Business Group on Health (the Business Group) appreciates the opportunity to respond to the Centers for Medicare and Medicaid Services' (CMS's) notice of proposed rulemaking revising the Medicare hospital inpatient prospective payment systems (IPPS) and other programs.

The Business Group represents a network of today's largest and most progressive employers, including 70 Fortune 100 companies, providing health coverage for 60 million workers, retirees and their families in 200 countries.

As the largest single payer for health care in the U.S., Medicare has significant influence to transform the delivery system away from a costly fee-for-service (FFS) structure that leads to misaligned incentives. Instead, Medicare should join with private sector efforts to transform the delivery system to one that will reduce overall costs and improve health outcomes by adopting alternative payment models, managing the total cost of care, achieving health equity, managing population health and keeping people well. The looming insolvency of the Medicare Part A trust fund in 2024 should accelerate CMS efforts.

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Specific to the proposed rule, the Business Group is commenting on closing the health equity gap, modifying the Medicare Shared Savings Program to delay risk, and repealing 2021 requirements to use private payer data for potential revisions to relative payments under FFS Medicare (known as Market-Based MS-DRG Relative Weight Policy).

Closing the Health Equity Gap

The Business Group wholeheartedly supports CMS efforts to close the health equity gap to reduce and eventually eliminate health disparities. The Business Group supports CMS strategic direction to address health equity by (1) increasing understanding and awareness of health disparities; (2) developing and disseminating solutions to achieve health equity; and (3) implementing sustainable actions to achieve health equity.

The Business Group recognizes that the health care system cannot improve what it cannot measure. To reduce health disparities and achieve health equity, CMS efforts must be built upon robust data collection to accurately track health outcomes stratified by race, ethnicity, socio-economic factors and more. The Business Group supports CMS efforts to improve demographic data collection by hospitals for the purposes of providing accurate equity reports with actionable information that hospitals can use to eliminate health disparities.

The Business Group agrees with CMS that self-reported race and ethnicity data are the gold standard for classifying individuals according to race/ethnicity. In addition to these data elements, the Business Group also supports CMS efforts to standardize hospital collection of data to include additional demographic elements including gender, sexual orientation, and gender identity (SOGI), language preference, tribal membership, and disability status. The Business Group recommends that CMS:

- Expand the data elements to include veteran status, employment status, housing stability/instability, patient location (rural, urban, or suburban) and highest level of education completed.
- Recommend appropriate safeguards and privacy protections for the use of sensitive consumer information at the individual level.
- Work with relevant federal and state agencies to address legal and regulatory restrictions around collection of race and ethnicity data to create a clear and consistent national collection standard.
- Provide guidance to hospitals on how to collect this information in a consumer-friendly way to improve response rates.

In addition, the Business Group supports CMS efforts to develop a hospital equity scorecard modeled after the Medicare Advantage Health Equity Summary Score (HESS) combined with risk-adjusted hospital outcome measures that sometime in the near future will be included on Care Compare website. The Business Group recommends that CMS consider measures where there are known disparities including asthma, cancer, heart disease, maternal health, sexually-transmitted diseases and others.

Medicare Shared Savings Program

The Business Group applauds CMS efforts to continuously refine the Medicare Shared Savings Program (entities participating are known as Medicare Accountable Care Organizations (ACOs)) to encourage provider reimbursement linked to clinical quality and health outcomes for Medicare beneficiaries at reduced costs. The Business Group recommends that CMS adopt policies to expand ACOs risk sharing to both upside and downside risk, where more mature systems take on increased financial responsibility. Therefore, the Business Group recommends that CMS *not* proceed with:

- The option for ACOs participating in the basic track level (where entities gradually take on increased double-sided risk after the first two performance years) to freeze advancement towards double-sided risk for the 2022 performance year (PY).

The unpredictable nature of the COVID-19 pandemic, especially during 2020 into the first quarter of 2021, drove appropriate decisions by CMS to modify the ACO program to address concerns that disruption to population health activities and revenue could have led to potential losses during the 2021 PY. CMS provided the option to ACOs to freeze advancement during 2021. According to CMS data, 74% of basic track ACOs elected to do so. During the second quarter of 2021 the COVID-19 pandemic is significantly easing due to highly effective vaccines available to most Americans. Therefore, the Business Group supports returning ACOs, whose risk level was frozen in PY 2021, back to gradually increasing double-sided risk beginning in 2022.

Additionally, health care systems with value-based payment arrangements demonstrated better ability to adapt to the needs of the pandemic, including by incorporating or expanding virtual care into their practice patterns.

Repeal of the Market-Based MS-DRG Relative Weight Policy

The Business Group applauds CMS decision to repeal the collection of market-based rate information to update its relative payments under Medicare Severity-Diagnosis Related Group (MS-DRG) beginning in 2024. In 2020, the Business Group expressed concerns with CMS' proposal because private sector payments differ from CMS payments (e.g. payment bundles, centers of excellence, performance guarantees, etc.) and therefore could lead to distortions when reweighting and potential cost-shifting to the private sector.

The Business Group reiterates our recommendation that Medicare continues to support movement away from fee-for-service payment models, including MS-DRG payments, and towards an alternative payment system where providers have skin in the game to reduce health care costs and improve quality.

Thank you for considering our comments and recommendations. Please feel free to contact me (kelsay@businessgrouphealth.org) or Matthew Sonduck (sonduck@businessgrouphealth.org), Policy Associate to discuss.

Sincerely,

Ellen Kelsay
President and CEO