



August 29, 2023

Chiquita Brooks-LaSure
Administrator, Centers for Medicare & Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Submitted via <https://www.regulations.gov/commenton/CMS-2023-0127-0001>

Re: Calendar Year (CY) 2024 Home Health Prospective Payment System Rate Update Proposed Rule

Dear Administrator Brooks LaSure:

America's Physician Groups (APG) appreciates the opportunity to respond to the Centers for Medicare & Medicaid Services' (CMS) Proposed Rule on the Calendar Year (CY) 2024 Home Health Prospective Payment System Rate Update. We welcome the agency's openness to stakeholder input and its ongoing commitment to improving health care for all Americans.

Below, APG will first provide (I) a brief description of our organization, followed by (II) a summary of CMS's proposed rule, and (III) APG's comments and recommendations. Together they reflect the voice of our membership and our commitment to working with the agency to ensure that all Americans have consistently accessible, high-quality, person-centered health care.

I. About America's Physician Groups

APG is a national association representing more than 360 physician groups that are committed to the transition to value, and that engage in the full spectrum of alternative payment models and Medicare Advantage (MA). APG members collectively employ or contract with approximately 195,000 physicians (as well as many nurse practitioners, physician assistants, and other clinicians), and care for roughly 90 million patients, including roughly 30 percent of all Medicare beneficiaries who are enrolled in MA.

Our motto, "Taking Responsibility for America's Health," underscores our members' preference

for being in risk-based, accountable, and responsible relationships with all payers, including MA health plans, rather than being paid by plans on a fee-for-service basis. Delegation of risk from payers to providers creates the optimal incentives for our groups to provide integrated, coordinated care; make investments in innovations in care delivery; advance health equity; and manage our populations of patients in more constructive ways than if our members were merely compensated for the units of service that they provide.

II. CMS Proposed Rule

As a general rule, Most APG member organizations do not provide home health care under their own auspices; some of them contract with home health agencies to provide care for their patients, and nearly all of them rely on a robust health care ecosystem that cares for patients in multiple ways, including via home health care. In its recent Home Health Proposed Rule (CMS–1780–P), CMS proposes multiple changes to home health payment rates that, on net, will significantly decrease payments to home health agencies and may ultimately affect the quality of care that our members’ patients receive.

First, CMS proposes a 2.7 percent update to the base payment rate for home health services, as mandated by statute: a 3.0 percent home health market basket update reduced by multifactor productivity adjustment of 0.3 percent.¹ Second, CMS proposes a permanent 5.653 percent reduction to Medicare home health payment rates. This reduction is proposed under CMS’s authority to make permanent adjustments to payment rates based on predictions of “excess” future spending. This authority resulted from the Balanced Budget Act of 2018’s (BBA 2018) change in the unit of payment for the home health prospective payment system from 60 days to 30 days and the law’s requirement that CMS implement the change in a budget-neutral manner.² The 5.653 percent reduction is proposed to adjust for overpayments that are expected to occur in 2024 and future years and follows a 3.925 percent cut that was implemented at the beginning of 2023. That 3.925 cut was half of the total permanent adjustment that CMS calculated was necessary to account for behavior changes, but the agency opted to mitigate the impact on home health agencies.

In 2024 alone, CMS estimates that the 5.653 percent reduction will remove \$870 million in spending from the home health benefit, which reflects about 5 percent of total Medicare Part A and Part B spending on home health services projected for 2024.³ CMS said that the agency considered and rejected alternatives, such as delaying or phasing in the payment reduction, to avoid potentially greater reductions in future years.

III. APG’s Comments and Recommendations

APG appreciates the care with which CMS exercises the agency’s statutory responsibility to implement the BBA 2018 changes to the home health prospective payment system and serves as a steward of the Medicare Trust Funds. We encourage CMS to proceed with an abundance of caution when finalizing payment changes for 2024. All projections of future behavior changes on the part of health care providers risk not aligning with actual experience. If projections call for payment reductions that turn out to be excessive, the result may be reduced beneficiary access to needed services and

¹ Sec. 1895(b) of the Social Security Act. https://www.ssa.gov/OP_Home/ssact/title18/1895.htm

² The Balanced Budget Act of 2018. <https://www.congress.gov/bill/115th-congress/house-bill/1892/text>

³ The Boards of Trustees. 2023 Annual Report of The Boards of Trustees of The Federal Hospital Insurance And Federal Supplementary Medical Insurance Trust Funds. <https://www.cms.gov/oact/tr/2023>

reductions in quality of care.

APG members are mindful of the impact of challenges that affect all health care providers, including workforce shortages, economy-wide inflation, and the ongoing effects of the COVID-19 pandemic. The reality of these economic challenges is, unfortunately, not reflected in plans for health care provider payment updates set in statute. As the Medicare Trustees have noted, health care providers have historically achieved lower productivity growth than is required in payment update formulas.⁴

APG requests that CMS consider mitigating the impact of the proposed permanent home health payment reduction through a delay, phase-in, or other means. In general, we suggest that any payment reductions the agency proposes should, if necessary, result in only moderate year-to-year change to allow time to evaluate the impact on beneficiary access to services and quality of care. If needed, additional reductions can always be implemented for future years.

IV. Conclusion

We thank CMS for taking the time to consider our comments and recommendations. APG appreciates CMS's careful consideration and balance of the agency's statutory authority to implement Congressionally mandated changes to the home health prospective payment system and Medicare beneficiaries' access to needed, high-quality services.

Sincerely,



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⁴ The Boards of Trustees. 2023 Annual Report of The Boards of Trustees of The Federal Hospital Insurance And Federal Supplementary Medical Insurance Trust Funds. <https://www.cms.gov/oact/tr/2023>