



September 27, 2019

The Honorable Seema Verma
Administrator, Centers for Medicare and Medicaid Services
Hubert Humphrey Building
200 Independence Avenue, S.W. 445-G
Washington, D.C. 20201

Re: CMS-1717-P

Dear Administrator Verma:

The Healthcare Leadership Council (HLC) appreciates the opportunity to submit comments in response to the notice of proposed rulemaking entitled “CY 2020 Medicare Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule (CMS-1717-P).”

HLC is a coalition of chief executives from all disciplines within American healthcare. It is the exclusive forum for the nation’s healthcare leaders to jointly develop policies, plans, and programs to achieve their vision of a 21st century healthcare system that makes affordable high-quality care accessible to all Americans. Members of HLC – hospitals, academic health centers, health plans, pharmaceutical companies, medical device manufacturers, laboratories, biotech firms, health product distributors, post-acute care providers, home care providers, and information technology companies – advocate for measures to increase the quality and efficiency of healthcare through a patient-centered approach.

Increasing Price Transparency of Hospital Standard Charges

HLC supports increased transparency in healthcare that helps patients, their clinicians, their family members, and other key stakeholders access important information about the potential cost and quality of care. HLC believes that pricing information should include accurate quality information. There is a risk that consumers, when only given pricing information, could make erroneous assumptions about quality based on cost – defeating our efforts to drive toward better outcomes and enhanced value.

Patients and employers need actionable data that can help them become more informed and engaged healthcare consumers. However, we ask the Centers for Medicare and Medicaid Services (CMS) to consider the unintended consequences of mandating the disclosure of competitively negotiated rates between insurers and hospitals. These rates do not reflect a patient’s out-of-pocket costs and are not helpful in giving a meaningful picture of the costs associated with certain types of care, nor do they allow for meaningful comparisons between similar services. Exposing negotiated rates could undermine the ability of hospitals and insurers to negotiate payments, which could have a counterproductive impact on price competition. As

the Federal Trade Commission noted in a 2015 blog post, “We believe it is possible to give consumers the specific kinds of information they need to make better health care choices, while avoiding broad disclosures of bids, prices, costs, and other sensitive information that may chill competition among health care providers.”¹ We agree that consumers should be equipped with information on cost and quality that allows informed healthcare decisions without stifling price competition.

Given the potential for unintended consequences to arise out of CMS’s proposal, and the significant body of private sector work already underway to improve patient access to cost and quality information, HLC strongly encourages CMS to delay implementation of any new rate transparency requirements until at least January 1, 2021. HLC commits to working directly with CMS during this time period to convene industry leaders and provide information about private sector efforts, tools, and other opportunities to achieve the agency’s goals of improving patient access to meaningful and actionable price and quality information. We strongly agree that this information can and should be provided to patients, but also firmly believe that industry needs more time to adopt and execute the right strategic approach with the support and engagement of CMS.

As a diverse coalition of healthcare stakeholders across the U.S. healthcare system, we believe innovation is essential to deliver pioneering drug and device therapies to the public. We applaud the proposed rule’s alternative outpatient new technology add-on payment pathway for devices that meet the Food and Drug Administration’s (FDA) Breakthrough Device designation. However, we encourage CMS to offer similar considerations for drugs and biologics that meet the FDA’s Breakthrough Therapy designation. Extending or creating a similar pathway for drugs and biologics with Breakthrough Therapy designation can improve patient outcomes through access to new medical innovations and help spur continued innovation into new treatments for patients.

Finally, we commend CMS for its commitment to reduce unnecessary administrative burdens across the healthcare industry, as excessive administrative tasks divert time and focus from ensuring that Americans have access to the high-quality healthcare they deserve. However, the volume of negotiated rates that hospitals will have to publish under the proposed requirements of the rule would create confusion among patients and impose a substantial administrative burden, as hospitals often contract with multiple insurers with several health plans offered by each insurer.

Thank you for the opportunity to comment on the proposed rule. If you have any questions, please contact Tina Grande at (202) 449-3433 or tgrande@hlc.org.

Sincerely,



Mary R. Grealy
President

¹ Tara Isa Koslov & Elizabeth Jex, *Price Transparency or TMI?*, FED. TRADE COMM’N (July 2, 2015, 2:31 PM), <https://www.ftc.gov/news-events/blogs/competition-matters/2015/07/price-transparency-or-tmi>.