

June 3, 2019

VIA ELECTRONIC SUBMISSION

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-9115-P, Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 21244-1850

**Re: CMS-9115-P; Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for Medicare Advantage Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans in the Federally-Facilitated Exchanges and Health Care Providers**

Dear Administrator Verma:

The Center for Medicare Advocacy (Center) is pleased to provide the Centers for Medicare & Medicaid Services (CMS) comments regarding interoperability in Medicare and Medicaid programs.

The Center, founded in 1986, is a national, non-partisan education and advocacy organization that works to ensure fair access to Medicare and to quality healthcare. At the Center, we educate older people and people with disabilities to help secure fair access to necessary health care services. We draw upon our direct experience with thousands of individuals to educate policy makers about how their decisions affect the lives of real people. Additionally, we provide legal representation to ensure that people receive the health care benefits to which they are legally entitled, and to the quality health care they need.

We strongly support the Administration's commitment to improving patient access to health information. However, we have concerns about patient privacy created by increased data sharing, and urge CMS to focus on safeguards to protect private patient information.

**Improving the Medicare-Medicaid Dually Eligible Experience by Increasing the Frequency of Federal-State Data Exchanges**

We strongly support the CMS proposal to require all states to participate in buy-in data exchanges with CMS on a daily basis by April 1, 2022. Currently, many states exchange data more infrequently, such as weekly or monthly, which can lead to increased costs for beneficiaries

if the state is not able to activate or terminate coverage in a timely manner; for example, beneficiaries may pay unnecessary costly premiums.

CMS also proposes to require all states to participate in “MMA” data exchanges on a daily basis. We strongly support this proposal, as it will help speed auto-enrollment of full-benefit dually eligible beneficiaries into Medicare prescription drug plans and deeming full- and partial-benefit dually eligible beneficiaries automatically eligible for the Medicare Part D Low Income Subsidy.

This is particularly important because many beneficiaries who experience delays in deemed eligibility for the Extra Help subsidy will be unable to afford their prescriptions. This will impact medication adherence for beneficiaries.

Daily submissions, and the ability for states to receive daily response files from CMS, spread state staff workload more evenly across the month, permit errors to be corrected more quickly, and connect new beneficiaries more quickly to Medicare benefits.

### **Open API proposal**

CMS proposes to require plans to make provider directory data, network information, drug benefit data, pharmacy directory information, and formulary or preferred drug list data available on the APIs as well. We appreciate CMS’s awareness of the sensitive nature of the personal health information that will be accessible through APIs. We would like to underscore the privacy and security concerns, and urge CMS to ensure that this information is accessible only in a secure manner. We would request CMS to provide more information on how the third-party developers would be regulated to ensure that sensitive health information is not at risk.

While we strongly support requirements that would enhance beneficiary access to plan information, we take this opportunity to reiterate concerns we have previously expressed regarding inadequate CMS oversight and regulation of accuracy of plan information, such as provider directories. We urge CMS to require that plan information be complete, accurate and up-to-date.

### **Request for Information on Advancing Interoperability Across the Care Continuum**

We strongly support CMS’s efforts to increase information sharing around transitions of care. Transitions are a point of particular vulnerability for beneficiaries, where the risk of miscommunication, missing instructions, or other errors requires particular focus to mitigate any unintended consequences. We request that CMS engage with stakeholders, including beneficiaries and caregivers, when determining next steps for information sharing aimed at transitions of care.

While sharing information during transitions of care is a central component of discharge planning, we take this opportunity to highlight several additional issues of importance when considering transitions of care and discharge planning. We urge CMS to focus on reducing avoidable hospital readmissions and improving patient care, with particular attention to the psychiatric and behavioral health needs of patients, including substance abuse disorders. We also urge any plans regarding transitions to focus on coordination, consultation, and the use of information from community-based service providers in aid of comprehensive discharge planning that is safe and well-coordinated. The requirements to transfer medical information, discharge orders, etc., are essential to success in other care settings. The failure to provide this necessary information has resulted in adverse consequences to many of the patients and families who contact the Center. In addition to patient specific information, the information to be transferred should include a standardized set of contact information, starting with how to contact the Medicare Ombudsman as well as social services agencies, including legal assistance providers and sources to assist beneficiaries in accessing necessary medications, supports and services.

## **Conclusion**

We appreciate the opportunity to submit these comments. For additional information, please contact Kata Kertesz, Policy Attorney, [kkertesz@MedicareAdvocacy.org](mailto:kkertesz@MedicareAdvocacy.org), or at 202-293-5760.

Kata Kertesz  
Policy Attorney  
*Licensed in DC and MD*