

September 13, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1772-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Submitted online via www.regulations.gov

RE: CMS-1772-P: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Acquisition; Rural Emergency Hospitals: Payment Policies, Conditions of Participation, Provider Enrollment, Physician Self-Referral; New Service Category for Hospital Outpatient Department Prior Authorization Process; Overall Hospital Quality Star Rating

Dear Administrator Brooks-LaSure,

Thank you for the opportunity to comment on the proposed rule entitled, "Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Acquisition; Rural Emergency Hospitals: Payment Policies, Conditions of Participation, Provider Enrollment, Physician Self-Referral; New Service Category for Hospital Outpatient Department Prior Authorization Process; Overall Hospital Quality Star Rating," as published in the *Federal Register* on July 26, 2022 (hereinafter "Proposed Rule"). The undersigned organizations urge the Centers for Medicare & Medicaid Services (CMS) to provide separate payment for non-opioid pain management approaches to acute pain patients, particularly those among populations at increased risk for developing an opioid use disorder, such as individuals in long-term recovery and those with a mental health condition. Doing so will greatly expand access to and use of non-opioid pain management therapies, and prevent opioid addiction among millions of Americans.

The COVID-19 pandemic unleashed a new wave in the decades-long fight against the opioid epidemic. 2021 brought record-breaking overdose deaths – according to the Centers for Disease Control and Prevention (CDC), over [107,600 Americans](#) died from a drug overdose last year. Approximately 75 percent of these deaths involved opioids. Furthermore, the data revealed the crisis' pronounced toll on communities of color. Overdose death rates among

Black Americans skyrocketed by [44 percent](#) and [39 percent](#) among American Indian and Alaska Natives.

Despite the historic loss of [over 81,000 Americans](#) from opioid-related overdoses, the healthcare system continues to expose patients to potentially addictive pain management approaches. Reimbursement policy incentivizes the use of prescription opioids as first-line treatment for postsurgical pain.

Approximately [90 percent](#) of surgical patients receive opioid-based treatments to manage their acute pain. These patients are frequently prescribed [over 80 pills](#) after procedures – well above international standards – whether they need them or not. The surgical setting is often the first-time patients are exposed to opioids, but many of these patients will initiate a long-term opioid use following such exposure. Peer-reviewed literature estimates this number between [10](#) and [20 percent](#), totaling [more than 3 million Americans](#) at risk of developing OUD or fatal overdoses.

CMS is uniquely positioned – as the largest health insurer in the world – to impact the trajectory of the opioid crisis, including by addressing the barriers that limit patient and provider access to non-opioid approaches. In the past, CMS has successfully expanded access to non-opioid approaches to patients treated in an ambulatory surgery center. By providing separate payment for such approaches, CMS saw a 120 percent increase in the utilization of non-opioid pain management approaches from 2019 to 2020. Clearly, providing separate payment for non-opioid approaches is a proven way to increase access to these tools.

To prevent opioid misuse among patients, we urge CMS to increase access to the full suite of available pharmacologic and non-pharmacologic non-opioid modalities by providing separate payment for such approaches in both the hospital outpatient and ambulatory surgery center settings.

The impact of expanding the availability of non-opioid acute pain management approaches is especially critical to several populations that are particularly vulnerable and at-risk for long-term opioid use following exposure or re-exposure to opioids after a procedure. These populations include the [22 million Americans](#) living with an active substance use disorder (SUD) or OUD, the [23 million Americans](#) in long-term recovery, the [17 million patients](#) with both a diagnosed mental illness and SUD, and the more than [1 million Medicare](#) beneficiaries diagnosed with OUD in 2020. If CMS cannot take the common-sense step to protect all beneficiaries, we urge the agency to consider a targeted proposal to provide patients most at risk with non-opioid options.

By adopting this common-sense, prevention-focused solution, CMS can have a lasting impact on the future of opioid and mental health crises. Patients and providers deserve a choice and a voice in how they manage acute postsurgical pain.

Thank you for considering these comments.

Sincerely,

Voices for Non-Opioid Choices

American Association of Nurse Anesthesiology

American Association of Oral and Maxillofacial Surgeons

American Psychological Association

Ambulatory Surgery Center Association

CADCA (Community Anti-Drug Coalitions of America)

Mental Health America

National Rural Health Association

Overdose Lifeline

Partnership to End Addiction

RetireSafe

Society for Opioid Free Anesthesia

Society of Behavioral Medicine

The Kennedy Forum

Young People in Recovery