July 30, 2026

Abe Sutton
Deputy Administrator, Centers for Medicare & Medicaid Services (CMS)
Director, CMS Center for Medicare and Medicaid Innovation (Innovation Center)
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Urgent Need for Action To Ensure That Innovation Center Models Do Not Undermine Patient Access to Non-Opioid Pain Treatment Options

Dear Deputy Administrator and Director Sutton:

On behalf of the undersigned organizations, all committed to efforts to prevent opioid addiction by enhancing access to non-addictive pain treatment options, we urge the Innovation Center to take action to ensure that its episode-based models align with, and do not undermine, critically important efforts of Congress and the Administration to combat the opioid addiction epidemic.

We are concerned that the current design of episode-based models is disincentivizing the use of non-opioid pain management therapies in postsurgical settings when these models apply. To address this issue, the Innovation Center should exclude from these models' episodes the payments for and/or costs associated with the limited set of FDA-authorized non-opioid treatments that CMS has designated as qualifying products under Section 4135 of the Consolidated Appropriations Act (CAA) of 2023, originally introduced as the Non-Opioids Prevent Addiction in the Nation ("NOPAIN") Act.

We appreciate CMS' continued investment in efforts to combat the ongoing opioid addiction epidemic and public health emergency, including through implementation of the NOPAIN Act. The NOPAIN Act established eligibility criteria for temporary additional payments for certain non-opioid treatments for pain relief in the Medicare hospital outpatient department and ambulatory surgical center settings. CMS has implemented those eligibility criteria through regulations, and CMS makes determinations regarding NOPAIN-qualifying products. To date, CMS has designated twenty products as NOPAIN-qualifying products, including certain drugs, biologicals, and medical devices.[1]

The intent of the NOPAIN Act is to increase patient access to non-opioid options to manage postsurgical pain. Consistent with that intent and CMS' own actions to date to improve access to non-opioid pain management strategies for Medicare patients, we believe CMS can and must do more to improve patient access to non-opioid pain management strategies. Doing so is necessary to fully implement the Agency's and the Administration's commitment to preventing opioid addiction and reducing overreliance on opioids.

[1] NOPAIN Act Implementation. (2026). *Available Qualifying Products in CY 2026*. Voices for Non-Opioid Choices. https://nonopioidchoices.org/wp-content/uploads/2026/06/NOPAIN-Qualifying-Products-2026.pdf.

For episode-based Innovation Center models in particular, such as the Transforming Episode Accountability Model (TEAM) and the proposed Comprehensive Care for Joint Replacement Expanded (CJR-X) Model, the bundled payment methodology for model episodes does not currently account for the separate payments that Medicare is required to provide under the NOPAIN Act. As a result, **we have significant concerns that these models' current and proposed frameworks are undermining the intent of the NOPAIN Act and disincentivizing participating hospitals from integrating NOPAIN-qualifying non-opioid approaches into episodes of care.** CMS has existing authority to implement these changes, and we urge the Agency to do so as soon as possible.

Therefore, CMS should issue rulemaking as soon as possible to ensure that patients receiving care in the context of Innovation Center models have access to non-opioid products.

Specifically, CMS should implement an exclusion, through rulemaking, for NOPAIN-qualifying products from TEAM episodes and other episode-based Innovation Center models. This exclusion would align with other exclusions that CMS already has either implemented or proposed in the context of episode-based models (including TEAM and the proposed CJR-X model), such as exclusions for therapies that CMS has approved for new technology add-on payments and for devices that CMS has approved for transitional pass-through payment status.

Implementing this requested exclusion would help address the economic disincentives that impede use of non-opioid pain-management therapies in postsurgical settings. Moreover, failing to implement this exclusion at the earliest possible opportunity would significantly undermine and run directly counter to the intent of the NOPAIN Act, and would perpetuate policies that inhibit continued progress to combat the opioid crisis.

Our continued overreliance on prescription opioids has significant public health and economic consequences. Opioid use disorder (OUD) costs Medicare billions in excess health costs annually.[2] [3] Available data demonstrate that more robust utilization of non-opioids would have a meaningfully positive health and economic impact, including on opioid prescribing requirements.[4] We believe policymakers and healthcare providers must work together to advance policies that help ensure patient health and safety, and that can also reduce the substantial costs to the Medicare program that overreliance on opioids currently causes.

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[2] Office of Inspector General. (2022, September 15). *Opioid overdoses and the limited treatment of opioid use disorder continue to be concerns for Medicare beneficiaries* (OEI-02-22-00390). U.S. Department of Health and Human Services. https://oig.hhs.gov/reports/all/2022/opioid-overdoses-and-the-limited-treatment-of-opioid-use-disorder-continue-to-be-concerns-for-medicare-beneficiaries.

[3] Desmarais, M., Tran, L., & Shih, H.-C. (2024, June). *Opioid use disorder in the Medicare fee-for-service program: Economic analysis*. The Moran Company, Health Management Associates. https://nonopioidchoices.org/wp-content/uploads/2024/06/Opioid-Use-Disorder-Economic-Impact-on-Medicare-Program-062724-final-1.pdf.

[4] Mauras J, McMahon M, Petrie J, Roubion R, Bronstone A, Leonardi C, Dasa V. (2025). *Reduction in Opioid Requirements Following Changes to Regional Anesthesia for Patients Undergoing Total Knee Arthroplasty*. Ochsner Journal. https://doi.org/10.31486/toj.24.0137.

Our organizations are eager to partner with CMS in continued efforts to prevent opioid addiction by ensuring that patients receiving care in the context of Innovation Center models have access to non-addictive pain treatment options that CMS itself has recognized the need for.

We appreciate CMS' and the Innovation Center's engagement on these critical issues, and we look forward to continued collaboration and discussion of how we can advance our shared goal of preventing addiction before it starts. If you have any questions or comments, please feel free to contact Chris Fox, Executive Director of Voices for Non-Opioid Choices, at chris@nonopioidchoices.org.

Sincerely,

60+ Association
Ambulatory Surgery Center Association
American Academy of Orthopaedic Surgeons
American Association of Hip and Knee Surgeons
American Association of Nurse Anesthesiology
American Association of Senior Citizens
American Podiatric Medical Association
American Psychological Association Services, Inc.
Association of periOperative Registered Nurses
National Transitions of Care Coalition
Outpatient Ophthalmic Surgery Society
Partnership to End Addiction
RetireSafe
Shatterproof
Society for Opioid Free Anesthesia
The Kennedy Forum
Voices for Non-Opioid Choices