AMGA
Advancing High Performance Health

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Mr. Andy Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Dear Mr. Slavitt:

AMGA welcomes the opportunity to comment on the Calendar Year 2017 Hospital Outpatient Prospective Payment (OPPS) final rule with comment. (CMS-1656-FC and IFC)

AMGA, founded in 1950, represents more than 450 single and multi-specialty medical groups and integrated delivery systems representing approximately 177,000 physicians who care for one-in-three Americans. Our members, in sum, continue to work toward achieving the triple aim of improving the experience of care, improving the health of populations, and reducing spending or the per capita costs of healthcare. We therefore have a strong interest in the OPPS.

In the July OPPS proposed rule, the Centers for Medicare and Medicaid Services (CMS) solicited comments in response to the agency's proposal to "remove the Pain Management dimension of the HCAHPS Survey in the Patient-and Caregiver-Centered Experience of Care/Care Coordination domain beginning with the FY 2018 program year" (page 45756). CMS stated that while adequate pain control is a critical aspect of patient care, the agency had concerns that pain management-related survey questions in the Hospital-Value Based Purchasing (HVBP) program may be unduly influencing physicians to over-prescribe pain medications. CMS, therefore, proposed to remove the pain management dimension of the HCAPHS in the HVBP program. CMS stated further the agency is developing and field testing alternative pain management questions and will solicit comments regarding these at some point in future rule making.

In the OPPS final rule with comment, CMS stated, "we are finalizing our proposal to remove the Pain Management dimension of the HCAHPS Survey in the Patient- and Caregiver-Centered Experience of Care/Care Coordination domain of the Hospital VBP Program beginning with the FY 2018 program year" (page 79862).

AMGA recognizes CMS is not soliciting additional comments on this decision. Nevertheless, AMGA is forced to comment once again on this policy.

As we noted in our September 6, 2016 OPPS proposed rule comment letter we opposed the proposed, and now final, policy for several reasons. (AMGA's letter is at: http://www.amga.org/wcm/Advocacy/ltr2017OPPS.pdf.) Once again CMS states in the final rule that it is unaware of any empirical evidence that demonstrates HCAHPS responses have

adversely or inappropriately influenced prescribing patterns for pain. "We are not aware, CMS states in the final rule, "of any scientific studies that support an association between scores on the Pain Management dimension questions and opioid prescribing practices" (page 79856). Nevertheless, CMS continues to believe the Pain Management dimension questions "creates pressure on hospital staff to prescribe more opioids in order to achieve higher scores on this dimension" (page 79856). Determining policy, particularly policy concerning such an important clinical care issue as pain management on a "belief," among other things, creates a slippery slope.

We also noted in our September 6 letter three inter-related concerns.

First, there is no evidence those actually prescribed opioid analgesics are primarily responsible for opioid abuse or account for the majority of opioid-related deaths. According to the Centers for Disease Control and Prevention (CDC), for example, between 2013 and 2014 synthetic opioids accounted for 80% of opioid-related deaths primarily due to the increased availability of illicitly manufactured fentanyl. It is worth noting as well in 2013 and 2014 the Medicare population accounted for less than 6% of total drug overdose deaths. 1 Based on the evidence, this policy appears to be a solution in search of a problem.

Second, it has been well documented that racial/ethnic minorities are significantly more likely to report severe pain and more likely to be consistently under-treated for acute and chronic pain than non-Hispanic whites. For example, in the emergency room setting, Hispanic and African American patients are two to three times more likely than non-Hispanic whites to not receive analgesia even after controlling for pain severity and other patient characteristics. 2 If the agency's assumption that hospital staff feel "pressured" to inappropriately prescribe opioids is correct, the likely effect, unintended or not, is the under-treatment of pain among minority patients will worsen.

Third, the rise in opioid abuse has largely been the result of increased consumption by non-Hispanic whites, i.e., not minorities. For example, the CDC estimates that between 2004 and 2013 heroin use among non-Hispanic whites increased by 114 percent. For Hispanic and African Americans, however, the rate decreased by 15 percent. 3 The rise in opioid abuse and opioid-related deaths are neither the result of those appropriately prescribed the use of opioid analgesics nor the problem of already under-treated minority patients. It would be far more productive therefore for CMS to make every effort to actively educate Medicare providers about the CDC's recently published, "Guideline for Prescribing Opioids for Chronic Pain." Proposing to eliminate learning to what extent providers adequately managed pain, particularly pain suffered by minority patients, without reason and for some indeterminate time is bereft of justification.

CMS is concerned pain dimension questions will put "undue pressure for providers to prescribe opioids" (page 79858). On its face this argument is flawed since under the HVBP program, hospitals can still be financially rewarded independent of comparatively lower quality performance. This finding was documented by Anup Das and his colleagues in a May 2016 Health Affairs article titled, "Adding a Spending Metric to Medicare's Value-Based Purchasing Program Rewarded Low-Quality Hospitals." 4 More generally, if providers are "under pressure" to achieve high quality performance, what explains their substantial non-participation in Medicare quality reporting. For example, in 2015 nearly 40% of physicians chose to take a 1.5%

reimbursement cut instead of submitting quality data under the Physician Quality Reporting System (PQRS).

Finally, since the agency states over and again it is their "belief" pain management dimension HCAHPS measures result in opioid over-prescribing, we encourage CMS to consider its decision in light of the ethics of belief literature. Notably, AMGA recommends agency staff review William K. Clifford's essay titled, "The Ethics of Belief," considered the *locus classicus* of ethics of belief scholarship. 5

Thank you for your consideration of our brief comments. If you have any questions please do not hesitate to contact David Introcaso, Ph.D., Senior Director for Regulatory and Public Policy, at dintrocaso@amga.org or at 703.842.0774.

Sincerely,

Donald W. Fisher
Ph.D. President and CEO

Notes

1. Rose A. Rudd, "Increases in Drug and Opioid Overdose Deaths - United States, 2000-2014," CDC Morbidity and Mortality Weekly Report (January 1, 2016). At: http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6450a3.htm.
2. Jean M. Mossey, "Defining Racial and Ethnic Disparities in Pain Management," Clinical Orthopeadics and Related Research," (July 2011): 1859-1870. At: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3111792/.
3. Christopher M. Jones, et al., "Vital Signs: Demographic and Substance Use Trends Among Heroin Users, United States, 2002–2013," CDC Morbidity and Mortality Weekly Report (July 7, 2015). At: http://www.cdc.gov/mmwr/pdf/wk/mm64e0707.pdf.
4. Anup Das, et al., "Adding a Spending Metric to Medicare's Value-Based Purchasing Program Rewarded Low-Quality Hospitals," Health Affairs (May 2016): 898-905.
5. William K. Clifford, "The Ethics of Belief," originally published in 1877 in Contemporary Review. Clifford's essay is available at: http://www.davidjamesbar.net/wp-content/uploads/2016/03/Clifford-The-Ethics-of-Belief.pdf. For an assessment of Clifford's work see Timothy J. Madigan, W. K. Clifford and "The Ethics of Belief," Cambridge Scholars Publishing, 2009.