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Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Dear Ms. Verma:

On behalf of the AMGA and its members, we appreciate the opportunity to comment on the “Medicare and Medicaid Programs: Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Program of All-Inclusive Care for the Elderly (PACE), Medicaid Fee-for-Service, and Medicaid Managed Care Programs for Years 2020 and 2021” (CMS-4185-P).

Founded in 1950, AMGA represents more than 450 multispecialty medical groups and integrated delivery systems representing approximately 177,000 physicians who care for one in three Americans. Our members work diligently to provide innovative, high-quality, patient-centered care in an efficient and cost-effective manner. Many of our member medical groups participate in the Medicare Advantage (MA) program, both under contract with MA plans and via their own sponsored MA plan offerings.

The proposed rule implements provisions of the Creating High-Quality Results and Outcomes Necessary to Improve Chronic (CHRONIC) Care Act, which was enacted into law as part of the Bipartisan Budget Act of 2018 (BBA). AMGA endorsed the CHRONIC Care Act, which, among other provisions, expands telehealth benefits within the MA program by allowing plans to offer additional benefits that are otherwise not available on a telehealth basis to those beneficiaries in fee-for-service Medicare. AMGA is a strong supporter of this provision and worked with Congress and other stakeholders to ensure its eventual passage and enactment into law. As a result, AMGA and its membership is keenly interested in how the Centers for Medicare & Medicaid Services (CMS) proposes to implement the law.

Key Recommendations

- AMGA recommends that CMS finalize its proposal not to impose any restrictions on the types of Part B items and services that MA plans may offer as an additional telehealth benefit.

- AMGA recommends that CMS finalize its requirement that any services offered as a telehealth benefit also be covered for in-person visits.
- AMGA recommends that CMS finalize its proposal to require MA plans to cover additional telehealth benefits through contracted providers.

Telehealth Benefits

MA plans historically have been limited in how they may offer telehealth services outside of the original Medicare telehealth benefit. MA plans could offer more telehealth services than are currently payable under original Medicare but only as supplemental benefits. The BBA, through provisions in the CHRONIC Care Act, expands how MA plans may offer telehealth benefits by permitting MA plans to provide these additional telehealth benefits and treat them as basic benefits for purposes of bid submission and payment. The statute limits additional telehealth benefits to services available under Medicare Part B and services that have been identified as clinically appropriate to furnish through electronic information and telecommunications technology. However, as the statute itself does not specify who would identify which services are clinically appropriate to furnish through electronic exchange, CMS proposes to authorize MA plans to make such a determination.

This proposal is largely consistent with a suggestion from the Medicare Payment Advisory Commission (MedPAC), which wrote in its June 2018 report to Congress that “MA plans and risk-bearing ACOs could be granted greater flexibility to use telehealth services,” given the financial incentives to evaluate the value of a particular service. AMGA is pleased that CMS is proposing to broadly interpret the type of services that MA plans may offer under this expanded benefit.

Restrictions of Benefits

In its proposal, CMS asks whether there should be any limitations on the types of Part B services that can be provided through the expanded telehealth authority. **AMGA does not believe CMS needs to restrict the type of benefits that are available through telehealth.** Only a small percentage of Medicare beneficiaries use the service. For example, MedPAC reported that less than 1% of Medicare beneficiaries used telehealth services at a rate of at least three services per year. Of those who did receive care via telehealth, 10% accounted for 46% of telehealth services. Further, the majority of telehealth uses were captured in at least one of CMS’ 20 chronic condition categories.ⁱ MedPAC also found that a small percentage of providers billed Medicare for telehealth services. Given the current state of telehealth use, AMGA does not believe adding additional restrictions is warranted. Instead, providers are best positioned to determine if a particular service is appropriate for telehealth, or if the patient needs to be seen in person. AMGA does not believe that CMS needs to expressly prohibit a particular item or service from telehealth coverage.

In-Person Benefit

If a plan elects to cover a Part B service as an additional telehealth benefit, CMS is proposing to require the plan to also cover the service as an in-person benefit. This restriction, however, does not preclude the MA plan from offering the service as a supplemental benefit. **AMGA recommends that CMS finalize this proposal to require the service be covered as an in-person benefit.** Providers are in the best position to determine how to deliver care for their patients. While MA plans are partners in how to address the healthcare needs of a patient population, providers remain best positioned on how best to deliver care to their patients. Limiting a benefit

to telehealth only would not be in the best interest of patients or their providers.

Additional Telehealth Benefits

CMS is proposing to limit delivery of the additional telehealth benefits to contracted providers and is seeking comment on whether this is appropriate. Under the proposal, non-contracted providers could deliver the telehealth benefits only as supplemental benefits. AMGA and its members are strongly invested in care coordination, which is particularly important for providers who will be held accountable for patient quality and outcomes. To that end, any policy that potentially exacerbates patient “leakage” is to be avoided. Therefore, **AMGA recommends that CMS finalize its proposal to require MA plans to cover additional telehealth benefits through contracted providers.**

Pending Medicare Shared Savings Program Changes

Although outside the scope of this particular proposed rule, the proposal does offer CMS the opportunity to address a longstanding concern of AMGA: the continued evolution of Medicare into three distinct payment systems, namely traditional fee-for-service Medicare, MA, and the Medicare Shared Savings Program (MSSP). As noted in our January 25, 2018, response to the Office of the Assistant Secretary for Planning and Evaluation’s (ASPE) request for information on promoting healthcare choice and competition, regulations governing each of the three payment systems differ substantially. To address the problem, AMGA in 2015 and again in our October response to the pending MSSP proposed rule (CMS-1701-P), recommended that the so-called telehealth waivers be available to all Accountable Care Organization tracks, as restricting their availability to two-sided models does not help ensure patients are receiving the most appropriate care in the most appropriate setting. Given that CMS is proposing a broad expansion of telehealth benefits for the MA program, AMGA recommends that the agency take an equally expansive regulatory posture toward MSSP so that the programs are better synchronized.

We thank CMS for consideration of our comments. Should you have questions, please do not hesitate to contact AMGA's Director of Regulatory and Public Policy, Darryl Drevna, at 703.833.0033 ext. 339 or ddrevna@amga.org.

Sincerely,



Jerry Penso, M.D., M.B.A.
President and Chief Executive Officer

ⁱ The 20 conditions are: diabetes, depression, congestive heart failure, rheumatoid arthritis, Alzheimer’s disease, chronic obstructive pulmonary disease, bipolar disorder, obesity, dual eligibility, schizophrenia and other mental disorders, stroke, hypertension, hyperlipidemia, ischemic heart disease, kidney disease, asthma, Alzheimer’s disease-related disorders, atrial fibrillation, osteoporosis, and cancer.