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APhA

July 12, 2017

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services (CMS)
Attention: CMS-9928-NC
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Reducing Regulatory Burdens Imposed by the Patient Protection and Affordable Care Act & Improving Healthcare Choices To Empower Patients (Docket No.: CMS-9928-NC) [RIN: 0938-ZB39]

Dear Administrator Verma:

The American Pharmacists Association (APhA) appreciates the opportunity to provide input to help the Department of Health and Human Services (HHS) reduce the regulatory burden and improve health insurance options under the Patient Protection and Affordable Care Act (ACA). APhA, founded in 1852 as the American Pharmaceutical Association, represents 64,000 pharmacists, pharmaceutical scientists, student pharmacists, pharmacy technicians, and others interested in improving medication use and advancing patient care. APhA members provide care in all practice settings, including community pharmacies, hospitals, long-term care facilities, community health centers, physician offices, ambulatory clinics, managed care organizations, hospice settings, and the uniformed services.

As the future of health care remains a major focus of HHS and Congress, APhA continues to emphasize the importance of regulatory flexibility that supports patient access to and coverage of pharmacists' patient care services and safe and affordable medications. We also strongly encourage policies that do not unnecessarily restrict choice, allowing patients to access care from the provider, including pharmacist or pharmacy, of their choice.

I. Improved Access to Health Care

As HHS considers regulatory opportunities intended to improve patient care, APhA emphasizes that pharmacists are the most accessible health care providers as 91% of all Americans live within five miles of a community pharmacy.[1] In addition to being medication

[1] NCPDP Pharmacy File, ArcGIS Census Tract File. NACDS Economics Department.

experts, pharmacists also provide a broad array of services beyond dispensing medications, including disease state and medication management, smoking cessation counseling, health and wellness screenings, preventive services, and immunizations. However, due to legislative and regulatory barriers such as references to "provider," "eligible professional," or similar terms that do not include pharmacists in their definition, pharmacists are often an underutilized health care resource. APhA requests that CMS employ its regulatory discretion, similar to efforts the Agency applied for chronic care management (CCM) and transitional care management (TCM) services, to remove barriers preventing qualified providers, like pharmacists, from being utilized. Such regulatory action has helped alleviate some of the restrictions preventing pharmacists from providing these services, which also positively impacts their inclusion on care teams and in value-based delivery models.

Sec. 3134 of the ACA requires the HHS Secretary to periodically identify potentially misvalued services and to review and make appropriate adjustments to the relative values for those services. In the 2017 Physician Fee Schedule Final Rule,[2] the HHS Secretary exercised this authority to create new billing codes to better facilitate the provision of services in the Psychiatric Collaborative Care Model (CoCM). Unfortunately, the Final Rule precluded pharmacists from billing under these new codes because they are "not within the scope of pharmacists or clinical psychologists under Medicare rules."[3] CMS has stated that it does not have the authority to authorize Medicare coverage for many pharmacists' services due to existing statutory limitations. Therefore, APhA requests the HHS Secretary exercise its regulatory authority to better include qualified practitioners, such as pharmacists, as it has done for other providers and for needed services, to enhance the infrastructure essential to effective delivery of health care. Doing so will improve patient access and choice, and increase efficiencies in the delivery of services, which is especially important as health care payment and delivery models become more value-based. In addition, APhA also recommends that HHS consider clarifying processes, such as evidence or literature standards, relevant to the creation of new billing codes to further flexibility and efficiencies.

II. Network Adequacy

While APhA emphasizes the need for accurate pharmacy network adequacy and access standards, we also suggest granting additional flexibility to patients regarding the provider of their choice. As the prevalence of both narrow provider and pharmacy networks has increased, patient preferences may not be fairly considered. Accordingly, APhA requests CMS ensure adequacy and access standards are met, and patient choices are expanded through policies granting health plans additional flexibility to include pharmacists when satisfying network adequacy and access standards. Better inclusion of pharmacists will improve care delivery and health outcomes by increasing access, enabling patients to obtain care from the provider, including pharmacist, of their choice.

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[2] CMS. Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2017. Final Rule. November 15, 2016. 81 FR 80170. Available at: https://www.federalregister.gov/documents/2016/11/15/2016-26668/medicare-program-revisions-to-payment-policies-under-the-physician-fee-schedule-and-other-revisions

[3] *Id.* at 80236, stating "we agree with the commenters who stated that the role of the psychiatric consultant under these codes is primarily evaluation and management, which is not within the scope of pharmacists or clinical psychologists under Medicare rules."

III. Essential Health Benefits

APhA anticipates stakeholders will request additional flexibility pertaining to Essential Health Benefits. APhA requests that HHS maintain prescription drug benefits, preventive and wellness services, and chronic disease management. Any allowed flexibility should maintain patient access to the aforementioned essential health benefits and permit patients to access services and medications from the health care provider of their choice if within the practitioner's scope of practice.

IV. Innovative Practice and Payment Models

The ACA established different opportunities to test alternative or innovative practice models, such as the Part D Enhanced Medication Therapy Management (MTM) Model and 1332 State Innovation Waivers. However, expansion or modification of these models is often limited and delayed by the need to meet certain metrics. APhA recommends that HHS consider reviewing processes for innovative care models to be more easily tested and broadly implemented.

The ACA also aimed to shift payment from volume to value by utilizing accountable care organizations (ACOs). Consequently, there is a greater emphasis on integrated, team-based care. Pharmacists often form collaborative practice agreements with physicians and other health care providers to expand access to care. However, pharmacists are not directly reimbursed for these services, limiting their uptake despite the growing primary care provider shortage.[4] Therefore, APhA requests that HHS consider opportunities to enable reimbursement for pharmacists providing care services.

V. Value

APhA has been a strong supporter of recent efforts to insert value into care delivery, payment and coverage. We encourage HHS, when setting policies, to look beyond isolated components of health care to determine value. Because health insurance coverage is frequently analyzed by the benefit type such as inpatient, outpatient, and drug coverage, a patient's overall services, costs and outcomes may never be reviewed comprehensively. HHS and other policymakers cannot continue to consider drug and medical coverage, and their related costs and outcomes separately if we are to achieve true value in health care. As HHS is aware, the U.S. spends nearly $300 billion dollars annually on medication-related problems, many of which are preventable and better addressed by breaking down the many silos within our health care system. Accordingly, health care coverage, payment and delivery policies need to be better integrated to measure and achieve value in our Nation's health care system.

Thank you for the opportunity to provide comments regarding regulatory burdens that, if removed, may enhance care and empower patients. As you move forward, please do not hesitate to use APhA as resource as we share the Agency's goal to maximize its regulatory flexibility to improve patient care, which will also help strengthen and sustain the health care system. For

[4] *See* Gums, John. Can pharmacists help fill the growing primary care gap? UF News. January 5, 2016. Available at: http://news.ufl.edu/articles/2016/01/can-pharmacists-help-fill-the-growing-primary-care-gap.php

questions or additional information, please contact Jenna Ventresca, Associate Director, Health Policy, at jventresca@aphanet.org or by phone at (202) 558-2727.

Sincerely,

Thomas E. Menighan, BSPharm, MBA, ScD (Hon), FAPhA
Executive Vice President and CEO

cc: Stacie Maass, BSPharm, JD, Senior Vice President, Pharmacy Practice and Government Affairs

The Honorable Tom Price, M.D., Secretary, HHS