



Nonprofit Kidney Care Alliance

October 5, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1732-P
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: CY 2021 Payment Policies Under the Physician Fee Schedule (CMS-1734-P)

Dear Administrator Verma:

On behalf of the Nonprofit Kidney Care Alliance (NKCA), I write to offer our comments and recommendations regarding the Centers for Medicare & Medicaid Services (CMS) 2021 End-Stage Renal Disease (ESRD) Prospective Payment System (PPS), Payment for Renal Dialysis Services to Individuals with Acute Kidney Injury, and End-Stage Renal Disease Quality Incentive Program Proposed Rule (CMS-1732-P). The NKCA represents six nonprofit dialysis providers: Centers for Dialysis Care; Dialysis Center of Lincoln; Dialysis Clinic, Inc.; Independent Dialysis Foundation, Inc.; Northwest Kidney Centers; and The Rogosin Institute. Collectively, we serve more than 21,000 ESRD patients at more than 300 facilities in 30 states.

To keep patients *off* dialysis, we also serve more than 5,700 patients with chronic kidney disease (CKD), with the goal of avoiding, or at least delaying, the onset of ESRD. To that end, many of our member companies participate in value-based care arrangements such as the Comprehensive ESRD Care (CEC) model and will likely continue to expand their participation in such arrangements under new models as part of the Administration's Advancing American Kidney Health Initiative. Through the CEC model, many of our member companies are pursuing partnerships with various providers and suppliers, not only in nephrology, but across the care continuum, from primary care to hospice.

Our goal in caring for dialysis patients and those with CKD is to provide the best care possible by improving patients' quality of life, reducing the risk of kidney failure, and increasing the number of kidney disease patients who can benefit from transplant. We believe that, on balance, the ESRD prospective payment bundle has allowed us to provide better care to our patients while achieving efficiencies in our delivery of care. It has also removed financial incentives that were not aligned with patient care. At the same time, we believe that it is critical that CMS "go upstream" to address CKD in a more comprehensive manner. Accordingly, we are very pleased that the Administration has launched Advancing American Kidney Health. Through this initiative, more patients will benefit from

transplant; fewer beneficiaries will start dialysis; and those who do start dialysis will be better prepared and more aware of their options, including home dialysis.

We appreciate the opportunity to provide comments on the following provisions of the Proposed Rule.

Comments Regarding Specific Sections of the PFS Proposed Rule

Telehealth and Other Services Involving Communications Technology

As NKCA member companies have managed the COVID-19 Public Health Emergency (PHE), many have relied on the flexibilities afforded to them by CMS to offer telehealth services in place of an in-person visit. As individuals with kidney disease and on dialysis have been greatly impacted by COVID-19, the ability to utilize telehealth where appropriate has helped to keep at-risk individuals safely in their homes while still monitoring their condition in between and outside of their dialysis treatments. We have experienced first-hand with many patients throughout the PHE, how beneficial this flexibility can be and how positive patients respond to having the option for their care.

CMS seeks to expand the list of temporary and permanent additions to the telehealth services list for several services. Separately they have also identified a number of services that they specifically did not propose to include in the telehealth services list including the ESRD Monthly Capitation Payment (MCP) codes. While we understand not every service or situation is appropriate for telehealth, we believe our experience with COVID-19 has shown the value, increased access, and benefit to providing greater flexibility than prior to the pandemic.

NKCA believes that turning back on the progress made on telehealth during the PHE would be short-sighted and a disservice to the millions of individuals who have gotten appropriate and necessary care in a safe way over the last several months. Now is the opportunity to move years of work on telehealth forward, particularly for individuals with chronic conditions such as kidney disease who already must balance a number of scheduled treatments, visits, and check-ins each month and even each week.

We have seen this interest and value in the recent inclusion of home as an originating site for home dialysis services. After a great deal of advocacy from the community, the final provision included safeguards to ensure appropriate use of technology and ensure that patients must still be seen every three months. This allows relief for a patient inundated with other medical appointments, while ensuring they are still appropriately followed and monitored while receiving their treatments at home.

To that end, we believe CMS should further expand the telehealth services list to the complete list of services included under the PHE and continue to work with stakeholders to ensure the appropriate safeguards are in place for patient safety and monitoring.

Revaluating Services that are Analogous to Office/Outpatient E/M Visits: ESRD MCP Services

In the 2020 and 2021 proposed Physician Fee Schedule rules, CMS discussed and sought comment regarding adjustments to the relative values of certain services, such as certain ESRD services, in particular CPT codes 90951 through 90970, based on changes in values associated with the CMS 2020 proposed changes to office/outpatient Evaluation and Management (E/M) visit codes. CMS refers to these codes as “analogous” as many were valued via a building block methodology and have office/outpatient E/M visits explicitly built into their definition and valuation. In the 2020 Proposed

Rule CMS indicated that it might adjust the RVUs for these analogous services to reflect changes in the RVUs for the office/outpatient E/M codes. CMS sought comment on this overarching policy as well as recommendations for revaluing certain services, including CPT 90951 through 90970, and in this proposed rule, proposes to revalue several services it considers as analogous codes.

In the 2021 Proposed Rule, CMS proposes to increase the work, physician time, and Practice Expense (PE) inputs to consider the corresponding office/outpatient E/M inputs that are built into the MCP services codes. CMS also asks for comment on whether all of the visit and time assumptions are actually being furnished as assumed in each of the codes and levels.

We commend CMS for its proposal to increase the work and PE values for the MCP services. Not only is this consistent with the changes in E/M codes, thereby maintaining consistency across families of codes in the PFS, but it also underscores the critical role that nephrologists play in the care of ESRD patients. The additional work and PE values and physician time in the MCP codes will also help promote increased home dialysis as well as transplant. Like other commenters we believe that time and visit requirements are being followed, since they are necessary to proper claims filing. If CMS has concerns, it may want to underscore the importance of adhering to these requirements when it provides claims processing guidance to implement the rule once finalized.

Conclusion

Thank you for the opportunity to comment on the 2021 PFS Proposed Rule. The NKCA appreciates the opportunity to provide input to ensure that the system continues to support quality of care to the patients we serve. We would be pleased to discuss these comments and suggestions in greater detail at any time. If you have any questions, please feel free to contact Martin Corry at 202-580-7707 or info@nonprofitkidneycare.org.

Sincerely,

A handwritten signature in blue ink that reads "Martin Corry". The signature is written in a cursive, flowing style.

Martin Corry
Executive Director