



HEALTHCARE NUTRITION COUNCIL

Improving outcomes through awareness and action

Submitted via regulations.gov

August 18, 2023

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1780-P
P.O. Box 8013
Baltimore, MD 21244-1810

Re: [CMS-1780-P] Medicare Program; Calendar Year (CY) 2024 Home Health (HH) Prospective Payment System Rate Update; HH Quality Reporting Program Requirements; HH Value-Based Purchasing Expanded Model Requirements; Home Intravenous Immune Globulin Items and Services; Hospice Informal Dispute Resolution and Special Focus Program Requirements, Certain Requirements for Durable Medical Equipment Prosthetics and Orthotics Supplies; and Provider and Supplier Enrollment Requirements

Dear Administrator Brooks-LaSure:

The Healthcare Nutrition Council (HNC) is providing comments on the Medicare Program; Calendar Year (CY) 2024 Home Health (HH) Prospective Payment System Rate Update; HH Quality Reporting Program Requirements; HH Value-Based Purchasing Expanded Model Requirements; Home Intravenous Immune Globulin Items and Services; Hospice Informal Dispute Resolution and Special Focus Program Requirements, Certain Requirements for Durable Medical Equipment Prosthetics and Orthotics Supplies; and Provider and Supplier Enrollment Requirements; CMS-1780-P. HNC is an association representing manufacturers¹ of enteral nutrition (EN) formulas and oral nutrition supplements (ONS), including those categorized as medical foods, and parenteral nutrition (PN). Our mission is to improve patient outcomes by advancing nutrition policies and actions that raise awareness and optimize access of essential nutrition support therapies across the continuum of care.

We would like to thank CMS for its acknowledgement to the imbalance in the fee schedule as it relates to inflation; as shown through CY 2023 Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) CPI-U fee schedule adjustment of 8.7% for non-competitive bid program (CBP) items, 6.4% for CBP items in former competitive bid areas (CBAs), and 9.1% for CBP items in non-CBAs.

In line with our mission, we are providing comments on the proposed regulatory changes impacting our members providing DMEPOS items and services. CMS is proposing to update the DMEPOS payment regulation to conform with the provisions passed in the Consolidated Appropriations Act of 2023 (CAA, 2023), which extended the 75/25 blended payment rates for non-rural non-competitive bid areas until December 31, 2023, or the end of the COVID-19

¹ HNC members are Abbott Nutrition, Nestle Healthcare Nutrition, and Nutricia North America.



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Public Health Emergency (PHE), whichever is later. The regulation would therefore state that non-rural, non-competitive bid areas will have the 75% adjusted and 25% unadjusted rates from March 6, 2020, until the duration of the PHE or December 31, 2023, whichever is later. HNC supports CMS' implementation of the payment relief that Congress provided in the CAA, 2023; however, we urge CMS to use its existing authority to extend that relief for at least another year (to December 31, 2024). We also urge CMS to use its existing authority to establish payment rates in former CBAs at a 90/10 blended payment rate (90% CBP rates/10% unadjusted Medicare fee schedule rates). HNC supports CMS' decision to maintain the 50/50 payment methodology that applies in rural areas. HNC makes these strong recommendations to ensure appropriate beneficiary access and DME supplier financial viability.

The Enteral Nutrition Market Has Changed Dramatically

The delivery, cost, and overall structure of the industry has changed drastically – which includes home medical equipment (HME). A recent national survey and study by the American Association for Homecare showed that 95% of HME providers incurred increased enteral supplies costs in from April 2022 to April 2023. The costs of goods increased 11-30%+, shipping increased 11-20%+ and labor increased 11-20%+. Additionally, 88% of suppliers reported no payer rate increases (excluding the Medicare CPI-U adjustments).² It is crucial that CMS extend the blended rates payment for at least another year, through December 31, 2024, as the EN DMEPOS CBP 2021 Round of bidding is still on hold.

Malnutrition continues to be a crucial component in reducing hospital-acquired conditions, lowering healthcare costs and improving the health and well-being of vulnerable Medicare beneficiaries. **HNC urges CMS to prioritize policies and initiatives that identify and treat malnutrition, encourage proper nutrition and the development of cost-effective nutrition therapy products, and that ensures access through adequate coverage and payment policies for nutrition therapy products.** HNC stands ready to work with CMS and all stakeholders to develop these policies as one means to improve the public health system. If you have any questions or would like additional information, please contact Sydni Arnone, Healthcare Nutrition Council, at sarnone@healthcarenutrition.org or (202) 204-8396.

Sincerely,

A handwritten signature in black ink that reads "Robert Rankin". The signature is written in a cursive, flowing style.

Robert Rankin
Executive Director

² American Association for Homecare. Cost Increases Affecting Enteral Nutrition and Supplies. Retrieved August 8, 2023 from: https://mcusercontent.com/3c0f3755f13930464597f245a/files/c01e6147-9f62-d214-1b2f-30e0acbb8065/Enteral_Infographic_2023.pdf