Submitted via regulations.gov

August 28, 2023

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–1786–P
P.O. Box 8010
Baltimore, MD 21244-1810

Re: [CMS–1786–P] Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Payment for Intensive Outpatient Services in Rural Health Clinics, Federally Qualified Health Centers, and Opioid Treatment Programs; Hospital Price Transparency; Changes to Community Mental Health Centers Conditions of Participation, Proposed Changes to the Inpatient Prospective Payment System Medicare Code Editor; Rural Emergency Hospital Conditions of Participation Technical Correction

Dear Administrator Brooks-LaSure:

The Healthcare Nutrition Council (HNC) is providing comments on the CY 2024 Medicare Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule (CMS 1786-P). HNC is an association representing manufacturers[1] 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.

In line with our mission, along with CMS priorities, we are providing comments on the application of the Overarching Principles for Measuring Healthcare Quality Disparities Across CMS Quality Programs. As detailed further below, HNC:

- **Strongly recommends the inclusion of nutrition quality measures to address health equity in the Hospital Outpatient Quality Reporting (OQR) Program and the Rural Emergency Hospital Quality Reporting (REHQR) Program.**

- **Strongly recommends that CMS include the nutrition screening, and support benefit of Oral Nutrition Supplements (ONS) to be included as a supply ‘‘incident to’’ the services of physicians at RHCs and FQHCs**.

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

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I. HNC strongly recommends the inclusion of nutrition quality measures to address health equity in the Hospital Outpatient Quality Reporting (OQR) Program, and the Rural Emergency Hospital Quality Reporting (REHQR) Program.

It is extremely important to identify and correctly diagnose malnourished patients and provide them with appropriate nutritional management to ensure recovery, particularly during an emergency room visit. Additionally, as CMS notes, significant and persistent inequities in healthcare outcomes exist in the United States and living in a rural area is often associated with worse health outcomes and the National Quality Forum (NQF) recently included the Global Malnutrition Composite Score in its 2022 Key Rural Measures: An Updated List of Measures to Advance Rural Health Priorities.[1] The emergency room treats a broad population of patients and is often used as a source of primary care for individuals without insurance. A CDC report found uninsured adults were more likely than adults with private health insurance or a public health plan to visit the emergency room.[2] As such, screening for malnutrition in emergency room patients would have a positive impact on the health outcomes of the uninsured patient population, which is often impacted by health disparities and malnutrition prevalence. HNC strongly recommends the inclusion of nutrition quality measures in the Hospital OQR and REHQR Programs, and the inclusion of a diagnosis of malnutrition as part of this reporting.

Malnutrition is a risk factor for severe clinical events, such as loss of lean body mass and risk of falls, and possibly worse outcomes after surgery or trauma, since proper nutrition is critical for healing and recovery. The 30-day readmission rate for any cause following an initial hospital stay for non-maternal and non-neonatal patients with malnutrition was 23.2 per 100 index stays, more than 50% higher than the rate among patients with no malnutrition during the index stay.[3] Care provided through an emergency room visit should address these socioeconomic consequences by including an assessment of nutritional status and connecting malnourished patients to community services and access to food.

Malnutrition is a critical issue, and malnutrition screening in the outpatient setting, in particular the emergency room department, is necessary to ensure at-risk patients are identified and cared for before experiencing worsening, associated outcomes.

II. HNC strongly recommends that CMS include the nutrition screening, and support benefit of Oral Nutrition Supplements (ONS) to be included as a supply ‘‘incident to’’ the services of physicians at RHCs and FQHCs.

The Rural Health Clinic Services Act of 1977 (Pub. L. 95–210, December 13, 1977), amended the Act by enacting section 1861(aa)(1) of the Act to extend Medicare and Medicaid entitlement and payment for primary and emergency care services furnished at a RHC by physicians and certain nonphysician practitioners, and for services and supplies incidental to their services. As defined in § 405.2415, RHCs and FQHCs furnish physicians’ services; services and supplies ‘‘incident to’’ the services of physicians. An IOP is a distinct and organized outpatient program of

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psychiatric services provided for individuals who have an acute mental illness, which includes, but is not limited to conditions such as depression, schizophrenia, and substance use disorders.

Nutritional status, and by consequence malnutrition, is often influenced by a variety of social determinants of health (SDOH), including where people live. In many cases SDOH will have a drastic impact on the availability and quality of foods, how foods can be prepared and consumed, and the foods that will be commonly consumed as staple parts of the diet. As a result, SDOH shape a population's nutritional status and may result in certain populations, such as the elderly, disabled, and underserved beneficiaries, including the poorest segments of society, becoming malnourished. These SDOH factors coupled with acute mental health illness put people at a higher risk for malnutrition.

One study conducted to assess nutritional status and risk of malnutrition in patients with mental illness showed that 34% of the outpatients were at risk of malnutrition, which was associated with higher levels of psychiatric symptoms and lower levels of functioning; even though the mean body mass index (BMI) of 27.9 showed patients were overweight.[4] Individuals with mental health disorders have many barriers to obtaining good nutrition, such as medication effects on appetite, reduced motivation levels, sedentariness or agitation, social isolation, cognitive impairments, and financial restrictions. A patient coming to an RHC or FQHC from the community for IOPs could be malnourished but may never have been diagnosed with malnutrition. Patients receiving care in an RHC or FQHC should be screened for malnutrition, and a diagnosis of malnutrition and related interventions should be properly documented in the patient's care plan and travel with the patient throughout their continuum of care. **HNC is strongly recommends that CMS include the nutrition screening, and support benefit of Oral Nutrition Supplements (ONS) to be included as a supply ''incident to'' the services of physicians at RHCs and FQHCs**.

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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,

Robert Rankin

Robert Rankin
Executive Director

[1]NQF: 2022 Key Rural Measures: An Updated List of Measures to Advance Rural Health Priorities (qualityforum.org), August 2022. Retrieved from: https://www.qualityforum.org/Publications/2022/08/2022_Key_Rural_Measures__An_Updated_List_of_Measures_to_Advance_Rural_Health_Priorities.aspx

[2] Renee M. Gindi, Ph.D., et al. Emergency Room Use among Adults Aged 18-64: Early Release of Estimates from the National Health Interview Survey, January-June 2011. Released May 2012. Retrieved from: https://www.cdc.gov/nchs/data/nhis/earlyrelease/emergency_room_use_january-june_2011.pdf.

[3] Barrett ML, Bailey MK, Owens PL. Non-maternal and Non-neonatal Inpatient Stays in the United States Involving Malnutrition, 2016. ONLINE. August 30, 2018. U.S. Agency for Healthcare Research and Quality. Available: www.hcupus.ahrq.gov/reports.jsp.

[4] Risch L, Hotzy F, Vetter S, Hiller S, Wallimann K, Seifritz E, Mötteli S. Assessment of Nutritional Status and Risk of Malnutrition Using Adapted Standard Tools in Patients with Mental Illness and in Need of Intensive Psychiatric Treatment. *International Journal of Environmental Research and Public Health*. 2023; 20(1):109. https://doi.org/10.3390/ijerph20010109