July 7, 2020

Seema Verma
Administrator
Center for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

Subject: CMS–5531–IFC: Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program

Dear Administrator Verma,

On behalf of our over 6,000 members and partners including nonprofit organizations representing the entire field of aging services, 38 state associations, hundreds of businesses, consumer groups, foundations, and research centers, LeadingAge, ElevatingHOME, and the Visiting Nurse Associations of America (VNAA) are pleased to offer the following comments in response to the CMS-5531 IFC, the Interim Final Rule, published on May 8th, 2020.

This response focuses on the home health aspects of the IFC. We appreciate CMS recognizing the importance of health care organizations focusing on critical patient needs during the coronavirus disease 2019 (COVID-19). The intentionality demonstrated to coordinate reporting requirements between the Home Health Value-Based Purchasing (HHVBP) Model and the Home Health Quality Reporting Program (HH QRP) as well as to align, as much as feasible, new rules relating to care planning for Medicare and Medicaid home health services is appreciated by our members.

**Reporting Under the HHVBP for CY 2020 During the COVID-19 Public Health Emergency (PHE)**

We support the policy to align the HHVBP data submission requirements with any exceptions or extensions granted for purposes of the HH QRP during the PHE for COVID-19. This allows home health agencies (HHAs) in the 9 states required to compete in the HHVBP to operate and report similarly to their peers, not under the requirement. In the past we have heard challenges from HHAs in states participating in the HHVBP Model that border states not in the Model regarding potential confusion for beneficiaries as some HHAs have publicly reported data that

varies from HHAs in non-HHVBP states. The consistency in reporting should help alleviate those concerns for the moment during the pandemic.

We similarly appreciate that 484.315(b) was modified to grant the exemption to New Measure reporting. However, as the COVID-19 PHE continues beyond June 30, we look for further consideration, as noted, into how the PHE has affected operations and relative performance and how that might impact performance calculations for HHVBP. It is important given the impact on reimbursement that HHVBP has that unintended consequences can be mitigated in advance if they are noted through CMS analysis.

**Care Planning for Medicare Home Health Services and Medicaid Home Health Services**

LeadingAge, ElevatingHOME, and VNAA strongly commend CMS for developing guidance to implement section 3708 of the CARES Act expeditiously allowing nurse practitioners (NPs), certified nurse specialists (CNSs), and physician assistants (PAs) to order and certify patients for eligibility under the Medicare home health benefit as well as having the Medicaid requirements apply in the same manner and to the same extent. It is beneficial for HHAs that provide services through both the Medicare and Medicaid programs to operate in as similar manner as possible for program efficiency and consistency. This alignment is beneficial not only for HHAs but also for other referring organizations in the health care continuum and Medicare and Medicaid beneficiaries. Additionally, we appreciate the consistency of using the existing definitions of the non-physician practitioners (NPPs) as many of our member organizations participate in multiple Medicare services which makes standardized definitions particularly useful.

Given the added authority granted to NPPs, we are pleased to see the modification in section 440.70(a)(2) in the Medicaid program to remove the requirement for NPPS to communicate the clinical findings of the face-to-face encounter should state law allow such flexibility.

**Delay in Compliance Date of Transfer of Health (TOH) Information Quality Measures and Certain Standardized Patient Assessment Data Elements (SPADEs)**

Given the disruption caused by the COVID-19 PHE, we support the policy to delay the release of the updated OASIS-E tool. As indicated in this IFC, it is important to have the time for vendors to update their software and HHAs to be able to train their staff on the new tool to properly implement both the new quality measures and the SPADEs. We agree with the timeline of implementation on January 1 of the year that is at least 1 full calendar year after the end of the PHE.

Thank you for the opportunity to provide comments on this rule and we look forward to continuing to work with you on these issues. Please reach out to Ruth Katz, Senior Vice President for Policy and Advocacy, at rkatz@leadingage.org with any questions.

Sincerely

President and CEO, LeadingAge
Acting President and CEO, Visiting Nurse Associations of America and ElevatingHOME