June 8, 2025

Mehmet Oz, MD
Administrator
Centers for Medicare & Medicaid Services
Department of Health & Human Services
Attn: CMS-1827-P
P.O. Box 8016
Baltimore, Maryland 21244-8016

Submitted electronically via http://regulations.gov

Dear Administrator Oz:

Thank you for the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) Fiscal Year 2026 (FY26) Skilled Nursing Facilities (SNF) Prospective Payment System (PPS) proposed rule: Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Updates to the Quality Reporting Program and Value-Based Purchasing Program for Federal Fiscal Year 2026. On behalf of more than 2,000 nursing home members, we submit our comments on proposed payment updates, changes to the Skilled Nursing Facility (SNF) Quality Reporting Program (QRP) and Value-Based Purchasing (VBP) program as outlined below.

About LeadingAge: We represent more than 5,400 nonprofit and mission-driven aging services providers and other organizations that touch millions of lives every day. Alongside our members and 36 partners in 41 states, we use applied research, advocacy, education, and community building to make America a better place to grow old. Our membership encompasses the continuum of services for people as they age, including those with disabilities. We bring together the most inventive minds in the field to lead and innovate solutions that support older adults wherever they call home. For more information, visit leadingage.org.

Payment Updates

CMS proposes a 2.8% payment update for FY26 based on a 3.0% market basket and 0.6% forecast error adjustment, less a 0.8% productivity adjustment. LeadingAge generally supports updates to payment policies based on timely data for a more accurate reflection of stable, current conditions. However, we continue to have concern about the inadequacy of long-term care reimbursement. While this rule is specific to post-acute skilled care, the policies in this rule impact both skilled and long-term care since many nursing homes serve both short- and long-stay residents and changes to payment policies impact both skilled and long-term care reimbursement policies.

While a 2.8% increase is a welcome increase, we are concerned that this increase still will not adequately capture the increased costs experienced by SNFs. Enhanced barrier precautions, implemented in March 2024, will require increased use of personal protective equipment (PPE) in FY26 and beyond. While we recognize that payment updates are based on past spending, one must also recognize the impact of the current market. Increased tariffs on the goods required for nursing homes to serve SNF residents, supply chain disruption, and other economic shifts cause an immediate strain on nursing home finances that cannot be overlooked. We urge CMS to reconsider payment update policies and work toward policies

that support nursing homes with the financial and physical resources needed to meet residents' needs in real-time.

SNF Quality Reporting Program

For the SNF QRP, CMS proposes the removal of four new standardized patient assessment data elements (SPADEs) under the social determinants of health (SDOH) category: one item for Living Situation (R0310), two items for Food (R032A and R0320B), and one item for Utilities (R0330). Finalized just last year in the FY 2025 SNF PPS rule, CMS now proposes to remove these items due to the associated burden of reporting. Removal of these items, according to CMS, will save SNFs a collective 31,891.20 hours of administrative burden at a rate of $146.11 per SNF.

LeadingAge supports removal of these SPADES. As noted in our comments on the FY 2025 SNF PPS rule, LeadingAge was opposed to the adoption of these SPADES, as these look-back items collect data on the patient's living situation, access to food, and access to utilities while living in the community. While these items represent social determinants of health that have an impact on a resident's overall well-being, they are neither reflective of nor impacted by the SNF stay. Any issues identified through the collection of this data is reflective of issues outside the SNF. While the SNF social worker may make referrals upon discharge to help address these issues, these issues will not be resolved during the patient's stay and are therefore not reflective of the skilled nursing and rehabilitation services provided by the SNF. For this reason, they are inappropriate measures for the SNF QRP.

CMS also proposes for SNF QRP an amendment to the reconsideration request policy and process. The existing policy allows for a provider to request an extension on the timeline for filing a reconsideration request when "extenuating circumstances" have prevented the provider from filing a timely request. CMS proposes to replace "extenuating circumstances" with "extraordinary circumstances" for consistency with the Extraordinary Circumstances Exception policy. Further, CMS proposes to add clarification to the policy that a SNF may request an extension to file a reconsideration request if the extraordinary circumstances that prevented timely request occurred during the 30-day period in which the SNF would ordinarily file the request. Lastly, CMS proposes that it will grant a timely request for consideration and potentially reverse an initial finding of noncompliance only if the SNF was in full compliance with SNF QRP requirements for the applicable program year, including any Extraordinary Circumstances Exceptions.

LeadingAge supports these proposals. We appreciate clarity and consistency among program policies and definitions by updating the language and criteria to that of the Extraordinary Circumstances Exception policy and we further appreciate clarification of the timeline for occurrence of extraordinary circumstances. Regarding the stipulation that the SNF must be in compliance with SNF QRP requirements for the program year in question, we recognize this as a logical requirement and appreciate the distinction that this would include Extraordinary Circumstance Exceptions.

SNF QRP Request for Information – Measure Concepts Under Consideration for Future Years: Interoperability, Well-being, Nutrition, and Delirium

CMS requests feedback on several measure concepts under consideration for the SNF QRP for future years. Among this year's measure concepts, CMS is gathering feedback on items related to interoperability, well-being, nutrition, and delirium.

LeadingAge does not support considering measures related to well-being and nutrition. As with previous years' comments on SPADES, we recognize the importance of social determinants of health but caution CMS to remember the purpose of SNF QRP and other quality measures. These metrics are all meant to measure and inform the public about nursing home quality. Incorporating metrics that measure access to nutrition and overall well-being are important considerations when looking holistically at the health of a SNF patient but are not impacted by the care provided during the SNF stay and are therefore inappropriate for inclusion in the SNF QRP.

In contrast, a metric measuring delirium would be an appropriate and valuable measure to add to SNF QRP. This measure concept would specifically address the SNF's ability to identify and effectively address delirium occurring in SNF patients and, as delirium is a more acutely occurring circumstance than nutrition or well-being, this metric would be measuring something that potentially has an onset during the SNF stay and absolutely would be addressed during the SNF stay. For this reason, LeadingAge supports consideration of the concept of a future measure of delirium.

Related to interoperability, LeadingAge appreciates CMS's request for information. We feel it is important for CMS to understand the status of interoperability in our nursing homes and the specific challenges and needs for support of nursing home providers. LeadingAge does not support the addition of an interoperability measure to SNF QRP at this time or in the near future, as we believe that CMS may be overestimating the readiness and abilities of SNFs related to interoperability. We believe that this RFI will demonstrate to CMS that more support is needed to bring SNFs and long-term care providers to a baseline level of interoperability before applying policy levers to improve performance, such as adding measures to any of the quality programs.

The LeadingAge Center for Aging Services Technology (CAST) has developed an instrument for assessing adoption of electronic health records (EHRs), the LeadingAge CAST 7-Stage EHR Adoption Model. CMS may find an instrument such as this helpful for gaining an understanding of where nursing homes and other post-acute care providers stand at this time. However, LeadingAge cautions that participation in any type of measurement generally represents administrative burden that nursing homes are not equipped to undertake at this time and CMS should be mindful of these burdens when determining how to move forward.

SNF QRP Request for Information – Potential Revision of the Final Data Submission Deadline from 4.5 Months to 45 Days

CMS requests feedback on a potential future policy revision to reduce data submission timelines for SNF QRP from the current 4.5 months after the end of the data collection period to 45 days. This change would shorten the amount of time it takes for quality measures data to be posted publicly on Care Compare. Currently, quality measures data is posted approximately nine months after the end of the data collection period. CMS does not provide an estimate of when quality measures would be posted publicly based on a 45-day data submission period.

Based on 2023 data, CMS reports that only 4.2 percent of all Minimum Data Set (MDS) assessments were submitted after 45 days and would thus be potentially negatively impacted by this change. An additional 2.8 percent of all MDS assessments were submitted between 45 days and 4.5 months after the end of the data collection period, meaning that approximately 1.4 percent of missed assessments would experience no additional benefit from leaving the submission window at 4.5 months.

LeadingAge supports revision of the final data submission deadline from 4.5 months to 45 days. We have heard concerns from our members in the past about how outdated publicly reported measures are, making these measures less meaningful for quality improvement and providing inaccurate information to the public who may be curious about the quality of care in a given nursing home. We further note that a 45-day data submission timeframe for SNF QRP is consistent with other data submission timeframes, such as the timeframe for submitting payroll-based journal data for staffing measures. Noting that providers occasionally miss these data submission deadlines due to technology issues or submitter error, it is our hope that CMS would work to clearly communicate the change, then put in place helpful reminders such as email blasts like those that are sent for other data submission deadlines.

SNF QRP Request for Information – Advancing Digital Quality Measures

CMS requests feedback on advancing digital quality measures for the SNF QRP. Specifically, CMS is considering ways to advance reporting of resident data through MDS assessment submission and National Healthcare Safety Network (NHSN) reporting according to Fast Healthcare Interoperability Resources (FHIR) standards. CMS is interested in exploring how SNFs integrate technologies of varying complexity into existing systems and seeks to identify the challenges that arise during integration and the support needed.

LeadingAge appreciates the opportunity for stakeholders to provide feedback on this topic and we have encouraged our members to respond to this Request for Information. As noted above, we believe that nursing homes, and in particular single-site and stand-alone nursing homes that are not part of chains or affiliated with larger healthcare systems, struggle to integrate health interoperability.

The Office of the Assistant Secretary for Planning and Evaluation (ASPE) at the Department of Health & Human Services (HHS) found this in a December 2023 report but noted that long-term care and post-acute care providers "lack monetary incentives, policy requirements, or a strong business case to increase interoperability." We caution CMS against taking such a narrow view of this issue. For LeadingAge's mission-driven providers, the issue is not a lack of motivation.

Improving interoperability presents an enormous administrative burden and financial strain that nursing homes simply cannot absorb alone. Nursing homes and other aging services providers were left out of and unable to benefit from federal incentives under the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009 that other healthcare providers were able to utilize to advance EHR technology. According to a 2024 review by LeadingAge CAST, only about 25% of members were using a basic integration between the EHR and other external and ancillary systems. Another 47% were using EHRs at a more basic level and only 8% were utilizing the EHR at the ideal full interoperability stage.

It is our hope that CMS will use the information gathered from this RFI to provide meaningful support that helps nursing homes improve interoperability rather than taking the easy way out with the carrot-and-stick approach of policy, requirement, and enforcement, as is so often the case. To truly improve quality in nursing homes, all entities need to work together as collaborative partners and abandon the paternalistic dynamic that has done little to advance quality over the past decades.

SNF Value-Based Purchasing Program

Under the SNF VBP program, CMS proposes to remove the health equity adjustment. Finalized in the FY 2024 SNF PPS rule for program year FY 2027, the health equity adjustment would reward top-performing

SNFs that serve higher proportions of SNF residents with dual-eligible status. CMS proposes to remove the health equity adjustment to simplify program scoring and notes that removal of the health equity adjustment will have a very small impact. Based on models that utilized quality measure data from 2018 to 2021, CMS estimates that the average incentive payment multiplier with the health equity adjustment would be 0.9924613988 and without the health equity adjustment would be 0.9915553875.

LeadingAge does not oppose removal of the health equity adjustment but encourages CMS to continue working to identify ways to incentivize and reward top-performing nursing homes. As VBP programs gain traction in both the Medicare and the Medicaid space, it will be important to monitor equity of these programs to ensure that quality healthcare is available to all older adults.

CMS also proposes for the SNF VBP program a new appeals policy on reconsideration requests. The new policy would allow a SNF to appeal a decision made on a Review and Correct reconsideration request prior to any data being made publicly available. This new policy would be in addition to the existing Phase One and Phase Two Review and Correct processes. SNFs would have 15 calendar days to request appeal starting the day after the date CMS issues a decision via email on a review and correction request.

LeadingAge supports the addition of this policy. We appreciate the existing policies that allow SNFs to request consideration when errors have been identified but having the opportunity to appeal a decision ensures a more equitable program. It is our hope that CMS will work to identify opportunities across other programs and administrative processes where appeals policies can be implemented.

Thank you for your consideration of these comments. If you have any questions, please reach out to Jodi Eyigor (jeyigor@leadingage.org) for more information.

Sincerely,

Jodi Eyigor
Senior Director, Nursing Home Quality & Policy