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June 1, 2021

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1746-P
P.O. Box 8016
Baltimore, MD 21244-8016

Re: Comments on CMS-1746-P

To Whom It May Concern:

On behalf of the South Dakota Association of Healthcare Organizations (SDAHO), we are submitting comments in response to the Department of Health and Human Service's (HHS) Centers for Medicare and Medicaid Services' (CMS) proposed rule *CMS-1746-P 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 2022* published in the Federal Register on April 15, 2021.

The South Dakota Association of Healthcare Organization (SDAHO) serves as a voice for South Dakota's hospitals and healthcare organizations encompassing the full continuum of care. SDAHO members include hospitals, healthcare systems, nursing facilities, home health agencies, assisted living centers, and hospice organizations. SDAHO's mission includes advancing healthy communities across the healthcare continuum.

Every member of SDAHO is affected by the COVID-19 Public Health Emergency (PHE) and is working together to contain the spread of COVID-19 and ensure positive outcomes for patients in South Dakota. The impact of COVID-19 is especially prevalent in South Dakota's nursing facilities. Prior to the COVID-19 pandemic, South Dakota had a bed occupancy rate of 89%. During the pandemic bed occupancy fell by over 20% in our state and has not recovered to pre-pandemic levels and continues to lag.

Forecast Error Adjustment

SDAHO believes the proposed 0.8% forecast error adjustment to the market basket is unduly burdensome on skilled nursing facilities trying to regain financial stability after crushing financial losses from the pandemic. Facilities have faced unprecedented costs and losses as they have responded to COVID-19. Permanent changes in patient care, infection control, reporting requirements, and staffing will ensure that facility costs continue to rise. Now is not the time to cut payments to nursing facilities.

SDAHO notes that skilled nursing facilities are the only providers subject to a forecast error adjustment in payment rates and recommends CMS reevaluate the applicability of this policy to skilled nursing facilities. We support raising the threshold for adjustments to at least 1%, as well as applying the adjustment as the difference between the error threshold and the calculated error. For example, using the difference between the error threshold of 0.5% and the calculated error of 0.8% would result in a smaller adjustment of 0.3%. We believe revising the forecast error adjustment calculation or eliminating it altogether will lead to additional financial certainty and stability for skilled nursing facilities.

PDPM Parity Adjustment

SDAHO believes that CMS should reevaluate the proposed adjustment amount and delay the adjustment until FY 2024 and phase in any adjustment by applying no more than a 1% adjustment each year. SDAHO further believes the analysis of FY 2020 claims to be inherently flawed due to the COVID-19 pandemic as care at skilled nursing facilities shifted substantially due to the pandemic. There were fewer scheduled and elective surgeries during the pandemic, resulting in a fewer short-term rehabilitation stays. In addition, families opted to care for lower acuity patients at home due to concerns about infection rates and visitation. All of these factors substantially changed the case-mix at skilled facilities making it almost impossible to compare FY2020 data to pre-pandemic data. We recommend that CMS re-evaluate the parity calculation using data after operations in nursing facilities return to pre-pandemic levels to ensure a more comparable analysis.

SDAHO urges CMS to delay implementation of any PDPM parity adjustment until at least FY 2024. We are strongly opposed to any adjustments in FY 2022 or FY2023. South Dakota's skilled nursing facilities have faced unprecedented challenges carrying for our most vulnerable residents during the pandemic. The past year has weighed heavily on staff, residents, and their families. We believe any negative payment adjustment will only serve to exacerbate already struggling facilities and will further the risk of nursing facility closure. Any action that threatens the financial viability and stability of care to nursing facilities should be delayed allowing nursing facilities the chance to recover from the pandemic.

Care Compare Public Reporting Periods in SNF Quality Reporting Program (QRP)

SDAHO appreciates CMS adjusting the performance period to account for impacts from COVID-19 publicly displayed on Care Compare. However, we think CMS should broaden the exclusion of data to encompass all quarters of 2020. While much of the county experienced COVID-19 surges in the first two quarters of 2020, more localized and regional surges hit later in the last half of 2020. South Dakota, like much of the Midwest, was especially impacted by COVID-19 in the last half of 2020. Including data in Care Compare for the third and fourth quarters of 2020 could cause negative impacts for South Dakota facilities. SDAHO urges CMS to exclude all quarters of 2020 from publicly reported data.

COVID-19 Vaccination Coverage Among Healthcare Personnel (HCP) Measure

SDAHO believes the reporting for this measure to be burdensome for skilled nursing facilities. Our members have indicated that the reporting burden with this measure is substantial and takes staff away from resident care. Additionally, SDAHO believes the reporting of this measure to be superfluous. CMS is already proposing a measure for healthcare associated infections which we believe to be a better indicator of a facility's overall infection prevention practices rather than a measure that singularly focuses on whether or not staff have been vaccinated.

Measure Suppression for SNF Value Based Purchasing (VBP) Program

SDAHO supports CMS's proposal to suppress measures in the VBP program that may be distorted by the COVID-19 pandemic as well as CMS's recognition of regional differences in the prevalence of COVID-19 cases. SDAHO further encourages CMS to review state and regional performance in addition to national performance when evaluating measure suppression factors to ensure measure suppression accounts for regional state differences in response to the COVID-19 pandemic. SDAHO encourages CMS to continue measure suppression in FY 2023 in order to account for late surges that occurred from November to December 2020 and January to March 2021.

SDAHO and our member long-term care facilities are committed to providing safe and effective high-quality care for our communities, as well as working in partnership with the state of South Dakota and the federal government to appropriately respond to COVID-19. We respectfully ask that CMS consider revisions to the final rule based on our comments. Please contact me if you have questions or reach out to Sarah Aker, SDAHO's Director of Fiscal Policy at 605.789.7527 or sarah.aker@sdaho.org.

Sincerely,



Tim Rave
President and Chief Executive Officer
South Dakota Association of Healthcare Organizations