MEDICARE RIGHTS CENTER
Getting Medicare right

266 West 37th Street, 3rd Floor
New York, NY 10018
212.869.3850/Fax: 212.869.3532

September 9, 2024

VIA ELECTRONIC SUBMISSION

Hon. Chiquita Brooks-LaSure
Administrator, Centers for Medicare & Medicaid Services
Attention: CMS–1807–P
P.O. Box 8010, Baltimore, MD 21244–8010

Re: RIN 0938-AV33: Medicare and Medicaid Programs; CY 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Prescription Drug Inflation Rebate Program; and Medicare Overpayments [CMS-1807-P]

The Medicare Rights Center (Medicare Rights) appreciates this opportunity to comment on the **Physician Fee Schedule for 2025** proposed rule. Medicare Rights is a national, nonprofit organization that works to ensure access to affordable and equitable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Each year, Medicare Rights provides services and resources to over three million people with Medicare, family caregivers, and professionals.

General Comments

As science and medicine progress, they reveal the interconnectedness of bodily systems and expose the folly of historic silos in care. We greatly appreciate the Centers for Medicare & Medicaid Services (CMS) focusing on mental health and substance use disorder treatment and to medically necessary dental services.

We urge CMS to approach Medicare coverage in these and other areas with the flexibility and expansiveness required to ensure that people with Medicare have the access, coverage, care, and resources they need to support their physical, mental, and financial well-being and live safely in their communities.

Payment for Medicare Telehealth Services Under Section 1834(m) of the Act (II.D.)

CMS proposes to state that an interactive telecommunications system may also include two-way, real-time audio-only communication technology for any telehealth service furnished to a beneficiary in their

home if the distant site physician or practitioner is technically capable of using an interactive telecommunications system (defined as multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication), but the patient is not capable of, or does not consent to, the use of video technology. We support this change. From our experience, audio-only communication can provide greater flexibility for people with Medicare, including those who may have physical, technological, or other barriers to effective video use or who prefer audio-only communication. As with all telehealth, we urge additional data collection and public reporting to ensure these technologies are used equitably and in the best interests of the individual.

Valuation of Specific Codes (II.E.)

In anticipation of an expected national coverage determination for Pre-Exposure Prophylaxis (PrEP) for Human Immunodeficiency Virus (HIV) Infection Prevention, CMS proposes national rates for codes associated with the counseling and drug administration portions of such services. We applaud CMS's focus on this important issue and support this proposal.

Evaluation and Management (E/M) Visits (II.F.)

CMS proposes to permit the Office/Outpatient (O/O) Evaluation and Management (E/M) Visit Complexity Add-on to be used on the same day as an annual wellness visit, vaccine administration, or any Medicare Part B preventive service furnished in the office or outpatient setting. We support this change to ensure beneficiaries are not burdened with unnecessary travel and logistics while getting the care they need.

Proposals on Medicare Parts A and B Payment for Dental Services Inextricably Linked to Specific Covered Services (II.J.)

As we have noted previously,[1] there is no whole-body health without dental health, and Medicare's lack of comprehensive dental coverage is a barrier to care for millions of beneficiaries. It not only leaves oral health care unaffordable, but also exacerbates underlying racial, geographic, and disability-related health and wealth disparities.[2] We appreciate CMS's efforts to address this disconnect, including by improving access to Medicare coverage for medically necessary dental care. These critical services can help people avoid impossible financial tradeoffs and obtain the care they need to treat their conditions. Given the importance of affordable, high quality, oral health care to beneficiary well-being, health

[1] Medicare Rights Center, "Re: RIN 0938-AV07: Medicare and Medicaid Programs; CY 2024 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Advantage; Medicare and Medicaid Provider and Supplier Enrollment Policies; and Basic Health Program [CMS-1784-P]" (September 11, 2023), https://www.medicarerights.org/pdf/091123-comments-2024-physician-fee-schedule.pdf.

[2] Georgia Burke, Amber Christ & Jennifer Goldberg, "Adding a Dental Benefit to Medicare: Addressing Racial Disparities" (October 2019), https://justiceinaging.org/wp-content/uploads/2019/10/Addressing-Oral-Health-Equity-by-Adding-a-Dental-Benefit-to-Medicare.pdf.

outcomes, and financial security, CMS must ensure the "medically necessary" coverage policy keeps pace with growing clinical evidence and evolving standards of care.

We applaud CMS for including oral health in its cross-cutting initiatives to advance health equity, expand coverage, and improve health outcomes and for taking historic steps to clarify that Medicare payment is available for such services when they are inextricably linked and substantially related and integral to the clinical success of certain Medicare-covered medical services. Among the medical services for which coverage of medically necessary oral care has been approved are organ and stem cell transplant surgery, cardiac valve replacement, valvuloplasty procedures, head and neck cancer treatment, as well as chemotherapy, chimeric antigen receptor (CAR) T-cell therapy, and high-dose bone-modifying agents used in the treatment of cancer.

CMS now proposes to include payment for dental services that are inextricably linked to dialysis services received by beneficiaries with End Stage Renal Disease (ESRD). We strongly support this proposal.

We also urge close consideration of conditions like diabetes and autoimmune disorders and ways that oral health conditions like periodontitis may increase the prevalence of other conditions which may increase the prevalence of periodontitis in a vicious circle that can only be interrupted by comprehensive treatment of both conditions.[3] Effective medical treatment must take into account all of the ways conditions may manifest themselves, as well as all of the ways lack of treatment of one bodily system may create ripple effects for other bodily systems.

Modifications Related to Medicare Coverage for Opioid Use Disorder (OUD) Treatment Services Furnished by Opioid Treatment Programs (OTPs) (III.F.)

CMS proposes to permit audio-only periodic assessments for OTPs on a permanent basis. CMS also proposes to extend authorization for audio-visual telecommunications for the initiation of treatment with methadone to match the current authorization for buprenorphine. We support both changes to help individuals with OUDs access the care they need.

Expand Hepatitis B Vaccine Coverage (III.M.)

CMS proposes to expand Part B coverage of vaccines for hepatitis B by expanding the list of individuals who are considered to be at high or intermediate risk. Under this proposal, anyone who is not fully vaccinated for hepatitis B would be considered to be at intermediate risk. We support this expansion of eligibility.

Conclusion

[3] Ira Lamster, *et al.*, "The relationship between oral health and diabetes mellitus" (October 2008), https://jada.ada.org/article/S0002-8177(14)63883-6/pdf.

Thank you again for the opportunity to provide comment. For additional information, please contact Lindsey Copeland, Federal Policy Director at LCopeland@medicarerights.org or 202-637-0961 and Julie Carter, Counsel for Federal Policy at JCarter@medicarerights.org or 202-637-0962.

Sincerely,

Fred Riccardi
President
Medicare Rights Center