June 27, 2019

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

Dear Administrator Verma,

We, the undersigned organizations, are writing to express our concern with Medicare's use of the "incident to" billing provision as it applies to claims submitted for medical services provided by PAs (physician assistants) and NPs (nurse practitioners). As you are aware, "incident to" is a Medicare billing concept that allows medical services personally performed by one health professional in the office or clinic setting to be submitted to the Medicare program and reimbursed under the name of another health professional. For the purposes of this letter, we will discuss "incident to" billing pertaining to services performed by NPs and PAs that are attributed to a physician. Due to the way services billed "incident to" are reported through Medicare's claims process, a substantial percentage of medical services delivered to Medicare beneficiaries by PAs and NPs are attributed to physicians. When this occurs, it is nearly impossible to accurately identify the type, volume or quality of medical services delivered by NPs and PAs. This lack of transparency has a negative impact on patients, health policy researchers, the Medicare program and PAs and NPs.

One of the key issues in ensuring that healthcare is consumer-centric is to provide patients with relevant and accurate information about their health status, the care they receive and the health professionals delivering that care. Each patient receives a Medicare Summary Notice (MSN) or an Explanation of Benefits (EOB) notice after receiving care. The MSN/EOB identifies the service the patient received and who delivered the care, among other details of the visit. "Incident to" billing often leads to patient confusion because the name of the health professional who provided their care does not appear on the MSN/EOB notice. When NP or PA services are billed "incident to," the MSN/EOB lists the service as having been performed by a physician not seen by the patient, which can cause patients to question who actually is their care provider and whether they need to correct what appears to be erroneous information regarding their visit.

Physician Compare is a Medicare-sponsored website designed to list individual Medicare-enrolled health professionals with an assessment of the professional's overall quality of care based on a Medicare computed performance score. When services performed by PAs and NPs are hidden due to "incident to" billing, not only is Medicare unable to determine NP/PA quality scores, but these scores may not appear on Physician Compare if the health professional does not exceed the low-volume threshold as a result of fewer services attributed to them. In addition, if health professionals have all their services billed under "incident to," such PAs and NPs may not be present on the Physician Compare website. NPs and PAs not

being identified, or not being accurately portrayed, impedes patients from making a fully informed decision regarding their choice of a healthcare provider.

With a substantial number of services provided by PAs and NPs attributed to physicians in "incident to" billing, data analysis regarding those services leads to incomplete or inaccurate conclusions. Consequently, health policy research performed using such data are similarly biased by a lack of attribution to the NP or PA who delivered the care. Publicly available Medicare claims information, such as Medicare Physician and Other Supplier Data, distort the ability to analyze individual provider contribution or productivity and may unintentionally lead to imprecise or erroneous conclusions despite the use of otherwise sound research evaluation methodologies. Under "incident to" billing, claims data collected and used by the Medicare program are fundamentally flawed due to the erroneous attribution of medical care to the wrong health professional. This hinders the ability of the Centers for Medicare and Medicaid Services (CMS) to make the most accurate policy decisions or conduct an appropriate analysis of provider workforce utilization, provider network adequacy, quality of care and resource use allocation.

The Medicare Payment Advisory Commission (MedPAC), in its report released on June 14, 2019, noted the increasing role of PAs and NPs in providing care to Medicare beneficiaries, estimated that a significant share of services provided by NPs and PAs was billed "incident to," and identified many of the adverse consequences of "incident to" billing for PAs and NPs stemming from compromised data quality.[1] Similarly, in CMS' recent 2019 Physician Fee Schedule final rule, the agency acknowledged that estimates of burden reduction and the impact on practitioner wages due to documentation of evaluation and management services were unclear due to the ability to report services "incident to" a physician when furnished by an NP or PA.[2] "Incident to" billing masks the impact of PAs and NPs on the healthcare system. The absence of data attributed to NPs and PAs for the services they provide affects their ability to appropriately participate in performance measurement programs, such as the CMS Quality Payment Program, and threatens their ability to be listed along with other health professionals on performance measure websites, such as Physician Compare. Similar concern regarding the negative impact of "incident to" billing on the accuracy and validity of value-based programs has been echoed in a Health Affairs Blog in a January 8, 2018 posting.[3] While claims reimbursement is by no means the only measure of a health professional's value and productivity, it is an essential component. The inability to demonstrate economic and clinical value, both within the Medicare program and to an employer, will influence the analysis of PA/NP contributions to the healthcare organization.

We encourage CMS to recognize the numerous problems that result from the current use of "incident to" billing as it relates to NPs and PAs. We further ask the agency to solicit input from affected stakeholders that will lead to a resolution of those concerns through an appropriate administrative or regulatory process. Recently, MedPAC commissioners voted to make a recommendation to Congress to eliminate "incident to" billing for PAs and NPs.[4] While the elimination of this billing mechanism for PAs and NPs is a solution, other options exist to help resolve our concerns. We would appreciate the

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[1] http://medpac.gov/docs/default-source/reports/jun19_medpac_reporttocongress_sec.pdf?sfvrsn=0

[2] https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-24170.pdf

[3] https://www.healthaffairs.org/do/10.1377/hblog20180103.135358/full/

[4] http://medpac.gov/docs/default-source/default-document-library/jan-2019-transcripts.pdf?sfvrsn=0

opportunity to meet and discuss this important issue in greater detail. For any questions please contact Michael Powe, AAPA Vice President of Reimbursement & Professional Advocacy, at 571-319-4345 or michael@aapa.org.

The American Academy of PAs
The American Association of Nurse Practitioners
The American Nurses Association
California Health Advocates
Families USA
The National Association of Pediatric Nurse Practitioners
The National Patient Advocate Foundation
The Physician Assistant Education Association