August 21, 2017

Ms. Seema Verma
Administrator
The Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20001

**NAMD Comments on Proposed Rule: Medicare Program, CY 2018 Updates to the Quality Payment Program (CMS-5522-P)**

Dear Administrator Verma:

On behalf of the nation's Medicaid Directors, we thank you for the opportunity to comment on CMS's proposed rule *Medicare Program, CY 2018 Updates to the Quality Payment Program* (CMS-5522-P).

The National Association of Medicaid Directors (NAMD) is a bipartisan, non-profit organization which represents Medicaid Directors in the 50 states, District of Columbia, and the five territories. Medicaid Directors are actively involved in driving delivery system and payment reform to promote value in the healthcare system and to achieve positive outcomes for Medicaid beneficiaries, including some of the most complex and vulnerable populations in the nation. State innovations in the development and implementation of Alternative Payment Models (APMs), both within Medicaid and across multiple payers, are continually showing positive results.

NAMD appreciates CMS's continued commitment to partnering with states and seeking the expertise of Medicaid Directors to inform rulemaking and implementation of the Quality Payment Program (QPP). This continued engagement is a model for effective state and federal partnership, particularly for navigating the complexities of Medicaid APM intersections with other objectives of the QPP. We encourage CMS to continue its commitment to working with states as the QPP enters its second year.

Comments on specific provisions of the NPRM are below.

NAMD
National Association of
Medicaid Directors

*<u>Other Payer Advanced APM Certification Process and Timelines</u>*

- **Payer Initiated Other Payer Advanced APM Determination Process:** CMS proposes a process whereby Medicaid agencies, along with other specified payers, would submit information about their APMs in advance of a QP performance period to receive CMS certification as an Other Payer Advanced APM. CMS proposes that the single state Medicaid agency be responsible for submission of this information, rather than allowing Medicaid managed care plans to submit their payment arrangements for CMS certification.

  Many states see the utility in this approach, as it allows states to collect information about and analyze the payment arrangements of their contracted managed care plans. For states which require their managed care plans to implement specific APMs, this requirement will likely not be burdensome. However, some states opt to allow their managed care plans to design their own value-based purchasing arrangements, and may monitor the plans' models retrospectively. In these instances, the state may prefer to delegate the submission of payment arrangements to CMS to the plan. We recommend that CMS allow states to delegate this task if they so choose.

  NAMD is also aware that some states are seeking to implement APMs across several public payers, including the Medicaid agency and public employee benefit programs. We encourage CMS to consider allowing the state to submit streamlined APM certifications across these public payers in future iterations of the QPP.

- **Timelines and Duration of Other Payer Advanced APM Determinations:** CMS proposes circulating a submission form for Payer Initiated Other Payer Advanced APM determinations in January 2018. Medicaid agencies would have until April 2018 to submit their payment arrangements for certification. CMS would plan to post initial determinations of Medicaid APMs in September 2018, with a final list posted in December 2018 in advance of the 2019 performance year.

  In NAMD's previous comments on the QPP, we called for CMS to prioritize identification of Medicaid APMs well in advance of the first performance year. We are concerned that the timelines above, with initial determinations in September and final determinations in December, may pose challenges for successfully implementing Medicaid APMs and aligning these APMs within the overall QPP framework. We recommend that CMS make Medicaid APM determinations on a rolling basis as states

submit their payment arrangements, and communicate its determinations to the states as they are made. The timeline for publication of Medicaid APM lists should not lead to delays in CMS's notification to states of APM determinations when they are available.

Additionally, CMS proposes that Other Payer Advanced APM determinations will be made annually. While we acknowledge that payment arrangements may change from year to year depending on state experiences and policy goals, many states are seeking more durable, multiyear payment reform initiatives. Requiring annual recertification of a payment arrangement that does not significantly change over a multiyear period may be administratively burdensome and potentially impede the state's overall goals. We recommend that CMS allow for multiyear Medicaid APM certifications when such certifications align with the state's overall delivery system and payment reform strategies. At minimum, CMS should create a streamlined recertification process for APMs which do not change from year to year.

***Financial Risk Considerations***

- **Revenue-Based Nominal Risk Standard:** In our previous QPP comments, NAMD called for CMS to allow states the option to use a revenue-based benchmark for risk in an Other Payer Advanced APM. We are pleased that CMS has proposed such a standard. Specifically, CMS proposes a revenue standard of 8%, applicable only to APM entities whose risk is expressly defined in terms of revenue, which matches the revenue-based risk for Advanced APMs.

- **Medicaid Medical Home Model Nominal Amount Standard:** CMS proposes reducing the initial total potential risk requirements for Medicaid medical homes to 3% of total revenues in 2019, increasing to 4% in 2020 and 5% in 2021 and following years. These levels are reduced from CMS's previous rulemaking, which set 2019 potential risk requirements at 4% of total revenues and 2020 and beyond at 5%.

  We support this more gradual approach to the total risk for Medicaid health homes. The lower initial risk requirements will allow for broader initial participation in Other Payer Advanced APMs and may serve as a tool to further develop health home infrastructures going forward.

- **Relative Complexity of Other Payer Advanced APM Risk Requirements:** In our previous QPP comments, NAMD expressed concern that the risk requirements applicable to Other Payer Advanced APMs is more complex than those applicable to

Medicare-only APMs. Specifically, we called out the application of a marginal risk threshold and a minimum loss ratio in addition to the 3% total expenditure risk to Other Payer Advanced APMs, whereas Medicare Advanced APMs must meet either an 8% revenue or 3% expected expenditure risk threshold. We continue to express our concern that these requirements may pose challenges for alignment across payers, and request CMS revisit these more complex Other Payer Advanced APM requirements.

***Electronic Health Record Usage Requirements***

As NAMD noted in previous QPP comments, while Medicaid Directors are committed to leveraging electronic health records (EHR) to drive care coordination and improved outcomes, we remain concerned at the overall level of EHR adoption among the diverse and unique Medicaid provider community. EHR adoption among Medicaid behavioral health, long-term services and supports, and rural providers remains an ongoing challenge, driven in part by some of these providers' exclusion from federal EHR adoption incentive programs. The requirement that Other Payer Advanced APMs must include at least 50% of eligible clinicians using certified EHR technology may limit these providers' ability to participate in Medicaid APMs.

We recommend that CMS develop a pathway for states to develop their own EHR adoption thresholds for Medicaid APM participation. Alternatively, CMS could more gradually phase in the EHR use requirement for Medicaid providers.

Thank you for your consideration of Medicaid Directors' perspectives on the QPP. NAMD and our members stand ready to continue the productive state-federal partnership on these issues.

Sincerely,

Judy Mohr Peterson
Med-QUEST Division Administrator
State of Hawaii
President, NAMD

Kate McEvoy
State Medicaid Director
State of Connecticut
Vice President, NAMD