

January 4, 2024

The Honorable Chiquita Brooks-LaSure  
Administrator, Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
P.O. Box 8013  
Baltimore, MD 21244-1850

Submitted electronically to [www.regulations.gov](http://www.regulations.gov)

**RE: Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program; and Basic Health Program [CMS-9895-P]**

Dear Administrator Brooks-LaSure:

The American Nurses Association (ANA) is pleased to submit the following comments in response to the proposed rule on benefit and payment parameters for federal and state-based exchange plans. ANA supports the agency's goals regarding health equity, and we further urge the agency to address access to care provided by advanced practice registered nurses (APRNs) through provider and network adequacy standards. ANA's comments will focus on:

- **Network Adequacy;**
- **Health Equity; and**
- **Telehealth**

**Network Adequacy**

ANA remains concerned that network adequacy requirements for the Qualified Health Plans (QHPs) do not adequately and explicitly ensure access to the health care services provided by APRNs. CMS is looking at whether there should be a national floor of quantitative network adequacy. ANA encourages CMS to ensure that plans offer enrollees robust choice of provider type, including APRNs.

APRNs provide safe and cost-effective care and are often the providers preferred by patients. States with outdated licensing rules unnecessarily restrict APRN practice, and therefore limit patient choice of provider. However, even in states that grant full practice authority for APRNs, patient access can be hampered by inappropriate barriers posed throughout care systems.

Unfortunately, ANA can share numerous accounts from our APRN members with firsthand experience of how plans discriminate against them, and the adverse impacts that discrimination has on patients. Excluding these clinicians from plans has led to delayed care, inaccurate patient follow-up, and dissatisfaction. We also know that patients often must pay out of pocket when APRN claims are denied, which could lead them to look for another clinician who will be covered. This creates unnecessary barriers to access to care for patients, especially the most vulnerable. Often, a physician may not be available or accessible, especially in rural and underserved areas. Patients are left without meaningful choices, even though APRNs stand ready to provide primary care and other services at the top of their

license. ANA believes HHS can do more through QHP oversight to provide the leadership needed to address these situations.

In addition, ANA continues to call on HHS to do more to address restrictions on access to APRN care, through regulatory action and leadership as the largest purchaser of health care in the United States. For instance, HHS must promulgate strong regulations implementing the federal provider nondiscrimination law, enacted by the Affordable Care Act, commonly known as Section 2706. ANA urges the agency to act expeditiously to finalize an enforceable rule that allows APRNs to practice at the top of their license across all types of plans. Regulations should explicitly bar all forms of discrimination, including contracting, payment, value-based incentives, and unnecessary requirements such as physician supervision and prior authorization.

Ensuring the inclusion of APRNs, allowed to practice at the top of their license, is imperative to addressing barriers to care faced by patients purchasing QHPs on the federal and state-based marketplaces. As such, CMS must ensure APRNs are considered when determining whether a QHP meets network adequacy requirements across all settings and geographic areas.

### **Health Equity**

ANA applauds the Administration's focus on health equity and looks to continue working together to close the health care gap and ensure that all Americans receive the high-quality care they deserve. ANA remains focused on the prominent issue of advancing health equity in our nation's health care delivery system. Providing equitable care to patients has long been an ethical imperative for the nursing profession. Nurses embrace diversity and engage in equity focused care, while working to remove unconscious biases to effectively promote meaningful patient outcomes. Ultimately, nurses are key in designing, directing, and delivering care that appropriately meets the needs of patients, improves access to needed care, promotes positive outcomes, and reduces disparities.

Nurses, in addition to providing quality care to patients, often serve as advocates for their patients and are best positioned to identify factors that could result in inequitable health outcomes. Nurses also typically reflect the people and communities they serve—allowing them to recognize the challenges faced by their patients and ensure that their patients receive equitable health care services. This is especially important as patients navigate their coverage options on the health insurance marketplaces. ANA encourages CMS to work closely with nurses to identify and address barriers to access and other health inequities within the QHPs offered on the federal and state-based marketplaces.

CMS is looking to change the eligibility dates for basic health programs. This flexibility would allow participants to enroll sooner and therefore would give them access to care at an earlier date. People's financial health can change suddenly and if they lose insurance, the ability to enroll in another plan quickly can ensure that participants continuum of care is not disrupted. ANA would support the changes that ensure participants can obtain coverage at earlier dates than currently allowed under the law and would encourage CMS to finalize this proposal.

In a similar vein, CMS is looking at amending the 1332 waiver process. Currently, the meetings to collect public input must be held in person. CMS is considering regulatory changes to allow virtual meetings in addition to in-person meetings. This would not replace the in-person meetings but would supplement them. ANA supports this proposal as it would allow more people to take part in the process and make their voices heard. Some states are very large and it is difficult to travel to in-person meetings. This

would allow that segment of the population to have their voices heard and could encourage more people to take part in the 1332 waiver comment process.

## **Telehealth**

Telehealth has become a vital tool in health care, and helping telehealth continue to grow post-pandemic, will help the Administration, and holds promise to support a healthier population and improve health equity. ANA strongly supports the telehealth flexibilities that were put in place during the COVID-19 public health emergency (PHE). These flexibilities greatly expanded the range of services available to the many Americans who do not live within a reasonable distance of the practitioner they need to see for their medical needs. The pandemic demonstrated the safety and effectiveness of telehealth services. QHP enrollees who live in health professional shortage areas (HPSAs) with complex medical conditions have not always been able to travel and see their practitioner, but expanding telehealth has greatly increased the ability of these patients to receive the care they require. While many people may assume that HPSAs are a rural issue, there are many urban HPSAs as well. QHP enrollees may also have limited mobility along with complex and chronic conditions that require significant amounts of care. Telehealth allows these patients to receive high quality care from the comfort of their own home thereby improving access to care and improving the health of the population.

CMS proposes requiring state exchanges to submit information about whether network providers offer telehealth services. ANA supports this proposal for the reasons stated above and believes that this data may be used by patients to choose plans that support their needs. If patients do not want to be seen remotely, they can choose a plan that does not support telehealth, but many people would probably want the option of seeing their providers remotely.

ANA also agrees with CMS on the need to support in-person care. While telehealth is a vital part of the health care system, there are cases where a telehealth visit is not appropriate. In those cases, ANA would not support telehealth visits and believes that in-person visits should be required.

## **Conclusion**

ANA is the premier organization representing the interests of the nation's over 5 million registered nurses (RNs), through its state and constituent member associations, organizational affiliates, and individual members. ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. ANA members also include the four advanced practice registered nurse roles (APRNs): nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives (CNMs), and certified registered nurse anesthetists (CRNAs). RNs serve in multiple direct care, care coordination, and administration leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care, and provide advice and emotional support to patients and their family members.

Nurses are critical to a robust health care system. Nurses meet the needs of patients and provide quality care that leads to better health outcomes for all patients. Moreover, nurses are critical to coordinated care approaches for Medicare beneficiaries in all settings, including hospital outpatient settings. Patient-

centered care coordination is a core professional standard for all RNs and is central to nurses' longtime practice of providing holistic care to patients.

ANA appreciates the opportunity to submit these comments and looks forward to continued engagement with CMS. Please contact me at (301) 628-5166 or [tim.nanof@ana.org](mailto:tim.nanof@ana.org), with any questions.

Sincerely,



Tim Nanof

Vice President, Policy and Government Affairs

cc: Jennifer Mensik Kennedy PhD, MBA, RN, NEA-BC, FAAN, ANA President  
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