



June 10, 2022

Submitted Electronically Via www.regulations.gov

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: CMS-1765-P: Medicare Program; Skilled Nursing Facility Prospective Payment System for Fiscal Year 2023 Proposed Rule

Dear Administrator Books-LaSure:

On behalf of the Association of Rehabilitation Nurses (ARN) – representing approximately 4,500 rehabilitation nurses and more than 14,000 Certified Registered Rehabilitation Nurses (CRRN) that work to enhance the quality of life for those affected by physical disability and/or chronic illness – we appreciate the opportunity to comment on the Centers for Medicare and Medicaid Services’ (CMS) proposed rule implementing the Skilled Nursing Facility (SNF) Prospective Payment System (PPS) for Fiscal Year (FY) 2023.

Overview of Rehabilitation Nursing

Rehabilitation nursing is a philosophy of care, not a work setting or a phase of treatment. We base our practice on rehabilitative and restorative principles by: (1) managing complex medical issues; (2) collaborating with other specialists; (3) providing ongoing patient/caregiver education; (4) setting goals for maximum independence; and (5) establishing plans of care to maintain optimal wellness.

Rehabilitation nurses practice in all settings, including freestanding rehabilitation facilities, hospitals, long-term subacute care facilities/skilled nursing facilities (SNFs), long-term acute care facilities, comprehensive outpatient rehabilitation facilities (CORFs), home health agencies (HHAs), and private practices.

Rehabilitation nurses take a holistic approach to meeting patients’ nursing and medical, vocational, educational, environmental, social, spiritual, and safety needs. We lead and coordinate rehabilitation, restorative care, and community reintegration for populations across all age groups and ethnicities across the care continuum, from ambulatory care to hospice. Rehabilitation nurses begin to provide care to individuals, their families, and caregivers soon after the onset of a disabling injury or chronic illness and continue to provide specialty care, patient and family education, and care transition planning that empowers these individuals to return home, work, and/or school. Rehabilitation nurses, in collaboration with interdisciplinary teams, provide comprehensive, population-specific care management to access health care services, adaptive technology and equipment, and community resources.

ARN supports efforts to ensure persons with disabilities and chronic illnesses have access to the appropriate level of rehabilitation services to maximize functional outcomes, independence, and quality of

life. Specifically, as a part of its mission, ARN stands ready to work with policymakers at the local, state, and federal levels to advance policies and programs that promote maximum independence for all persons in need of rehabilitation.

Proposed FY 2023 Rate Update

ARN is disappointed in CMS' proposed FY 2023 SNF PPS rate update. CMS estimates the aggregate impact on the payment policies and rates in this proposed rule would result in a decrease of approximately 320 million in Medicare Part A payments to SNFs in FY 2023. This estimate reflects a 1.4 billion increase from the 3.9% update to payment rates, which is based on a 2.8% SNF market basket update plus 1.5 percentage point market basket forecast error adjustment and less a 0.4 percentage point productivity adjustment, as well as a negative 4.6% or 1.7 billion decrease in the SNF PPS rates as a result of the proposed recalibrated parity adjustment. Also, these impact figures do not incorporate the SNF VBP reductions for certain SNFs that are estimated to be 186 million in FY 2023.

Additionally, we don't believe that CMS has considered just how much the increase cost of running a SNF – e.g., workforce salaries, benefits, contract labor, the costs of higher turnover and training as people left healthcare, as well as supply costs, and food costs. ***ARN strongly urges CMS to do everything within its statutory authority to increase payment rates to SNFs and other healthcare providers. We suggest CMS reassess the data and methodology used for the annual market basket update and formulate a rate update that better reflects the fiscal reality SNFs currently face.***

Impacts for the Skilled Nursing Facility Quality Reporting Program

While ARN supports vaccination of HCP employed in SNFs for the flu and COVID, we do have some concerns with reporting on vaccine status for employees. We realize that SNFs provide care to some of the most vulnerable people, including populations least likely to be vaccinated against the flu and COVID and that vaccination of HCPs can reduce the risk of transmission from HCP to SNF.

As you know, SNFs are already required to report vaccine status to CMS weekly and are financially penalized if the SNF fails to report. ARN is concerned that by including #NQF0431 quality measure could lead to a facility being double penalized and thus lead to double the work in a setting that is already struggling to retain or hire new staff. ***ARN would request that CMS address these concerns before adding #NQF0431 beginning with the FY 2025 QRP.***

Value Base Purchasing Program Measures

ARN believes that in order to achieve quality SNF care, CMS must continue to review and implement additional value payment arrangements and quality measures. However, we do not believe that the time is right for the several of the new measures in the SNF VBP program, proposed in the NPRM. These include measures related to total nursing hours per patient day and discharge to community. Given the current workforce shortage our members are concerned that they will be unable to meet the measure and therefore be penalized. For the discharge to community measure our members also report that they take a lot of patients for rehabilitation that do not have great discharge plans and they end up requiring placement. ***ARN urges CMS to take the current and future workforce shortages in SNFs into consideration when implementing new measures.***

Rulemaking on Minimum Staffing in Nursing Facilities

ARN applauds CMS' commitment to improving the level and type of staffing needed to ensure safe and quality care in SNFs. Moreover, ARN has also been supportive of the American Nurses Association's

2020 Principles for Nurse Staffing. However, we are very concerned with the timing of this rulemaking on minimum staffing in a nursing home.

ARN believes that CMS should support SNFs by building the workforce first before implementing a national minimum staffing requirement. A strong, adequate workforce supply and necessary funding should be in place first. We feel the impact of the ongoing workforce challenges that have continuously worsened since the start of the pandemic. We hear from our members that their facilities do not spare any effort to recruit new staff, and yet we continue to face challenges. We cannot see that employees will become available, and workforce will be expanding in the near future.

ARN also believes that the impending 4.6% PDPM parity adjustments, the workforce shortage and inflation on the rise will all significantly and negatively impact patient care. If CMS continues down this path, providers will begin closing down units, and possibly entire facilities, leading to reduced access to care by our most vulnerable population. ***ARN urges CMS to hold off on implementing minimum staffing for nursing facilities until a plan is in place to help with recruitment and retention.***

Conclusion

ARN appreciates the opportunity to provide comments to CMS regarding the proposed rule implementing the FY 2023 SNF PPS. We are available to work with you, your colleagues, the rehabilitation community, and other stakeholders to develop and implement payment policy changes that ensure access to quality care for Medicare beneficiaries with physical disabilities and/or chronic disease. If you have any questions, please contact me or ARN's Health Policy Associate, Jeremy Scott (jscott@dc-crd.com or 202-484-1100). We thank you for your consideration of our comments.

Sincerely,



Jill Rye, DNP RN CRRN CNL FARN
President