June 18, 2018

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1675-P
P.O. Box 8010
Baltimore, MD 21244-8010

RE: FY 2019 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements (CMS-1692-P)

Dear Administrator Verma,

ElevatingHOME and VNAA submit the following comments on the *FY2019 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements*. We appreciate CMS' positive hospice payment update but offer additional recommendations to support patients and caregivers at the end of life. Of critical importance, ElevatingHOME urges CMS to provide additional funding and technical assistance to support an interoperable health IT infrastructure so that all members of the interdisciplinary care team have access to the information and support they need.

ElevatingHOME is a new industry organization launched to unify America's for-profit and not-for-profit home-based health (home health and hospice) care providers and to advocate for high-quality, affordable care. ElevatingHOME was formed by the leadership of the Visiting Nurse Associations of America (VNAA) with leaders and stakeholders from across the country. ElevatingHOME's mission is to align, unify, and strengthen the home-based care industry.

Our specific comments on the proposed rule follow.

II. D. Trends in Medicare Hospice Utilization

CMS reiterates that hospices are to report all diagnoses codes on hospice claims, whether related to the terminal prognosis or not.

Response: ElevatingHOME and VNAA agree that all providers should be aware of their billing responsibilities regarding a hospice patient and encourages CMS to support hospice providers to ensure that they receive all needed information. To that end, CMS should support and fund an interoperable health care system and additional education systems so that all providers are aware of the patient's hospice election and are guided to communication with the hospice provider. This is not meant to suggest additional regulation or requirements; rather tools to ensure that providers who support hospice patients better understand Medicare coverage of services.

III. A. Monitoring for Potential Impacts-ACA Hospice Reform

1.a. Length of Stay and Live Discharges: Hospice Length of Stay

CMS reports that the rates for both *length of stay* and *total lifetime length of stay* are similar between FY 2015, FY 2016 and FY 2017. *Average lifetime length of stay* is consistent over the same time period.

Response: ElevatingHOME and VNAA strongly recommends that CMS continue data collection of hospice length of stay over an episode and over the lifetime. However, data collection must focus on patterns of hospice utilization and not an individual's use of services over the lifetime. Data collection is meant to support payment and policy alignment, not to monitor patient-level use of services.

1.a. Length of Stay and Live Discharges: Live Discharges

CMS again documents that approximately half of live discharges in FY 2017 were because the individual was no longer terminally ill.

Response: ElevatingHOME and VNAA request additional information from CMS about the high rate of live discharge, as well as more information about their methodology. We are concerned that their analysis does not take into account the full scope of data included in the patient's care plan. Instead, their presentation of the data makes it appear that there are high rates of fraud—but does not acknowledge that are other reasons for live discharges

A high proportion of live discharges because a patient was no longer terminally ill could indicate that patients are being enrolled who are not terminally ill or who do not need end-of-life care. But this could also indicate that patients are underserved at home before they reach hospice and have experienced a decline in health and function that—absent high quality care at home—could be terminal. With support and intervention, a patient's trajectory towards death is halted and a live discharge is possible because the patient is no longer terminally ill.

ElevatingHOME and VNAA recommends that CMS continue data collection on live discharges and patient's revocation of the benefit. CMS should monitor the care plans of patients who are discharged live to see if the medical condition improved during the episode. The care plans will also identify a patient's next steps, including if a facility placement followed the live discharge or if new hospice services were put in place.

ElevatingHOME and VNAA also support program integrity measures to curb inappropriate admissions. Policymakers should develop and implement monitoring and pre-payment review for hospices with high rates of live discharge to curb fraud or abuse.

1.b. Skilled Visits in the Last Days of Life

After analyzing the first year of data on utilization of services, CMS reports a very small increase in the number of patients receiving skilled visits in the last days of life has occurred with the implementation of Service Intensity Add-on (SIA).

Response: ElevatingHOME and VNAA applaud CMS' continued interest in supporting patients in the last seven days of life. We support their goal of aligning payment structures to ensure that all patients get the skilled visits they need at the end of life—and the SIA attempted to do this. However, while there has been a small positive increase in the number of patient's receiving skilled services at the end of life, patients are receiving similar levels of care when compared to before the SIA payment. This policy did not encourage the desired shift in utilization.

ElevatingHOME and VNAA ask CMS to refine the model to increase the number of patients who receive skilled services in the last seven days; additional incentives or policy alignment is needed. ElevatingHOME and VNAA strongly support CMS' goal that patients and caregivers receive the level of care necessary during the critical last days of life and encourages additional policy development in this area.

1.c. Non-Hospice Spending

CMS continues to monitor hospice spending for duplicate payments, with a particular focus on Part D drug spending.

Response: Federal policy must prioritize hospice patients receiving needed medications in a timely and effective manner, regardless of the payer and without additional burdens on the patient or caregiver.

At end-of-life, hospice patients may require a wide range of prescription drugs, in addition to other maintenance drugs. Restrictions or burdensome utilization management strategies should not be used to curb perceived duplicate payment for drugs. These structures delay needed prescriptions for very vulnerable patients—and dramatically increase the paperwork burden on providers, diverting them from patient care.

Further, many providers—including prescribing providers, pharmacists, plans, as well as hospices—deliver prescription drugs to hospice patients. Each of these providers has a different process for filling prescriptions; there is no centralized coordination mechanism. Yet only hospices are subject to a financial penalty when there is evidence of duplicate payments. Alignment and transparency across *all* providers is vital for improving appropriate prescription drug utilization.

ElevatingHOME and VNAA urge CMS to convene stakeholders, patient groups and hospice providers in the planning process when designing any new or revised benefit and payment structures on drug

payment (and potential duplicate payments), and to develop an appropriate on-ramp to allow hospice providers, pharmacists and other participating providers to adjust their administrative systems allowing for data-sharing to best align accurate and non-duplicative prescribing and billing practices.

2.B.2. Proposed Hospice Payment Update Percentage

CMS proposes a hospice payment update percentage for CY 2019 of 1.8%.

Response: ElevatingHOME and VNAA supports the positive payment update for FY2019. However, the update does not appropriately keep pace with the cost of providing care to beneficiaries. The payment update does not match the increasing costs associated with data collection and reporting, technology, workforce and training.

A 2015 Pricewaterhouse Cooper's cost trend report[1] cited that increasing technology costs account for 2% growth in administrative costs alone, per year. ElevatingHOME and VNAA strongly encourages CMS to revisit the payment update to account for the underlying and growing costs of providing high-quality hospice care and meeting the new reporting requirements from CMS.

CMS must revisit this proposed payment update to account for the growing costs of providing high-quality hospice care. The payment update must be sufficient to cover the burden on providers of meeting CMS' new reporting requirements, as well as necessary investments in technology, workforce and training. When combined with program integrity safeguards, an adequate payment increase will ensure that Medicare beneficiaries receive high quality care and that taxpayer funds are used appropriately. Additional funds should be designated to support hospice providers with interoperable health information technology.

2.D. Recognition of Physician Assistants as Designated Attending Physicians

In order to comply with the changes made in the BiPartisan Budget Act which was signed into law, CMS has expanded the definition of designated physician to include physician assistants.

Response: ElevatingHOME and VNAA support expansion of designated physicians to include physicians assistants.

ElevatingHOME and VNAA support allowing individuals to work to the extent of their training and licensure. While at this time nurse practitioners and other advance practice registered nurses are not able to practice to the full extent of their licensure, we ask that CMS continue to examine avenues that would allow for clinicians to do so. This would allow for greater care coordination and efficiency for the health care system.

[1] http://www.pwc.com/us/en/health-industries/top-health-industry-issues/assets/pwc-hri-medical-cost-trend-2015.pdf

2.F.b Accounting for Social Risk Factors in the Hospice QRP

CMS is continuing to review measures beyond "dual eligible" for consideration in measuring social risk factors.

Response: ElevatingHOME and VNAA support the development and implementation of a measures that fully allow for social risk. While "dual eligible" can be a solid preliminary step in attempting to capture this information, there other indicators that may include

We appreciate CMS' acknowledgement that stakeholder engagement is critical to the development and implementation of these measures.

2.F.c New Measure Removal Factor

CMS proposes adoption of an eighth factor for measure removal: The costs associated with a measure outweighs the benefit of its continued use in the program.

Response: ElevatingHOME and VNAA support the adoption of the new eighth measure with the understanding that some measures maybe be costly to measure but the benefit to patients justify the expense. It is through that lens that we hope measures are fully considered weighing true value to the patient and full cost to the provider.

4.b Revised Data Review and Correction Timeframe for Data Submitted Using the Hospice Item Set (HIS)

CMS is proposing deadlines and timelines for HIS data.

Response: ElevatingHOME and VNAA appreciate that there should be a finite time period to correct HIS data. At face value, the timelines appear adequate for provider needs. We would ask for consideration that data could be retroactively corrected if there proves to be an error with the records caused by the vendor.

6.d. Display of Public Use File Data and / or other publicly available CMS data on the Hospice Compare Website

CMS announces that the plan to add additional information to the Hospice Compare Website.

Response: ElevatingHOME and VNAA support public education and hospices and other forms of care paid for by Medicare. However, it is important that there is education and explanation for all of the data. Far too often additional information does not add to knowledge but confusion. This should be done with an eye to value added, not just added.

VI. Request for Information on Possible Establishment of CMS Patient Health and Safety Requirements for Hospitals and Other Medicare-Participating Providers and Suppliers for Electronic Transfer of Health Information

CMS invites comment potential electronic medical record requirements for providers.

Response: ElevatingHOME and VNAA envision home-based care providers as an integral and critical component of high-quality health care delivery models. ElevatingHOME and VNAA advance the principles across the care continuum that health care starts at home, that the home is a lower-cost setting for care delivery, and those outcomes are often best at home. In providing this care and working within the healthcare continuum.

A vital component of interoperability is electronic medical records and the ability to securely and quickly exchange medical information. While there have been attempts to expand interoperability by CMS and Congress through incentives, by in large, those incentives did not reach hospice providers. Any timeline and requirements must be done with an eye towards sustainability of providers and that any rate changes consider the costs of true interoperability. Additionally, as these systems cannot be implemented overnight, it is vital to give at least 24 months from passage or change to the CoPs. Additionally, for providers of a certain size, it will be important to allow the continuation of medical records via mail or fax with strict transmission timelines.

ElevatingHOME and VNAA appreciate the opportunity to offer comments on the Hospice proposed rule, as well as offering comments on solutions that would improve the hospice care benefit. ElevatingHOME and VNAA welcome the opportunity to serve as a resource. Please contact Joy Cameron, vice president of policy & innovation at jcameron@elevatinghome.org or 571-527-1536.

Best regards,

Joy Cameron
VP of Policy and Innovation