September 13, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: CMS-1772-P: Medicare CY 2023 Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs

Dear Administrator Brooks-LaSure:

The Health Care Transformation Task Force (HCTTF or Task Force) appreciates the opportunity to comment on the Centers for Medicare and Medicaid Services (CMS) Medicare Payment Policies Under the Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs (CMS-1772-P) ("Proposed Rule").

The Task Force is a consortium of private sector stakeholders that support accelerating the pace of transforming the delivery system into one that better delivers and pays for value. Representing a diverse set of organizations from various segments of the industry – including providers, payers, purchasers, and patient/consumer advocacy organizations – we share a common commitment to transform our respective businesses and clinical models to deliver better health and better care at reduced cost. We strive to provide a critical mass of policy, operational, and technical support from the private sector that, when combined with the work being done by CMS and other public and private stakeholders, can increase the momentum of delivery system transformation.

We appreciate the opportunity to provide input on the following topics and questions:

IX. Proposed Services that Will Be Paid Only as Inpatient Services

The Task Force continues to support CMS' criteria for removing services from the Inpatient Only List (IPO) and supports the proposed removal of ten services identified as being appropriate for delivery in the outpatient setting. The Task Force does urge CMS, however, to proactively monitor how changes in site-of-service may affect those participating in alternative payment models. We note that in 2018, the removal of total knee arthroplasty (TKA) from the inpatient-only list led to a significant reduction in in-patient TKA procedures, despite CMS' assurances to the contrary. Fortunately, CMS subsequently modified the Comprehensive Care for Joint Replacement

(CJR) model to include TKA and total hip arthroplasty performed in the outpatient setting in the episode definition, but this required new risk adjustment methodology to account for differences in the patient case mix across the inpatient and outpatient settings. Overall, the Task Force recommends that CMS take proactive steps to mitigate the impact of site-of-service or other changes on both benchmarks and on target prices used in CMMI models and MSSP, when a material policy change is made.

X. Nonrecurring Policy Changes Related to Behavioral Health Services

The Task Force offers the following comments on the Non-Recurring Policy Changes Related to Behavioral Health Services as follows:

- ***Mental Health Services Furnished Remotely by Hospital Staff to Beneficiaries in their Homes:*** CMS proposes to designate a number of mental health disorder diagnostic and therapeutic services – that are performed remotely by a hospital's clinical staff using communications technology to beneficiaries in their homes – as covered and reimbursable hospital outpatient services under the OPPS. The OPPS-specific coding for these services specifies that that the beneficiary must be in their home and that the hospital staff performing these services be physically located at the hospital when furnishing the remote services. CMS requests comment on whether requiring hospital staff be in the hospital when providing services is too burdensome or restrictive.

  The Task Force appreciates CMS' acknowledgement of significant barriers for Medicare beneficiaries to access mental health care services and the Agency's consideration of ways to remove those barriers. **Our members support the proposal to allow hospital outpatient staff to provide and be reimbursed (with the use of appropriate code descriptors) for the delivery of mental health services furnished remotely to beneficiaries in their homes**. However, Task Force members believe that requiring that reimbursement require that remote mental health services be provided by hospital personnel only located inside the hospital is restrictive, reflects form over substance, and may limit access to necessary services. **Thus while we support the proposal, we oppose the criteria to require hospital staff to provide these services only from the hospital outpatient setting.**

  The remaining criteria for billing for these services – including licensure to provide mental health services under applicable State law, when the patient is in their home, and there is no associated professional service – provide ample protections for both the patient and the provider that mental health services are being delivered in a way that complies with Medicare regulations.

- ***Audio-Only Communication Technology:*** CMS proposes that hospital clinical staff be required to have the capability to furnish two-way, audio/video services but may use audio-only communications technology given an individual patient's technological limitations, abilities, or preferences. As in previous Task Force OPPS and IPPS comments, the **Task Force supports this flexible proposal and believes it is consistent with the goal of making behavioral health services more accessible for beneficiaries**. In addition, the Task Force recommends that providers be required to document why a beneficiary declines to participate in a two-way video visit, specifically noting whether

it is due to lack of access, inability to use the technology, or the patient's lack of consent. Given the evolving field of telehealth, this is an opportunity for CMS and payers in general to gather a better understanding of patients' preferences and concerns. These data will provide insight into telehealth utilization, along with its impact on patient safety, quality, equity, and efficiency, and subsequently support future policy decisions and inform opportunities to educate providers and patients.

XI. Overall Hospital Quality Star Rating

The Overall Hospital Quality Star Rating provides a one-to-five-star rating of hospital quality, based on the results of publicly available quality measures. **The Task Force continues to support including Veterans Health Administration hospitals in the star rating calculations; it also supports the new proposal to refresh Hospital Compare using measure results from a quarter within the prior year, allowing for public reporting of more timely data**. The current lengthy lag time between data collection and its public availability has long been a concern because of its suboptimal impact on timely patient decision-making for choosing an outpatient hospital setting. This proposal offers a positive step toward improving the timing and offering Medicare beneficiaries useful information.

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The Task Force appreciates the opportunity to respond to the OPPS/ASC Proposed Rule. Please contact HCTTF Executive Director Jeff Micklos (jeff.micklos@hcttf.org) with questions related to these comments or request for additional information.

Regards,

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