PARTNERSHIP FOR MEDICAID HOME-BASED CARE

August 12, 2019

Submitted electronically via:
http://www.regulations.gov

Ms. Seema Verma
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
P.O. Box 8013
Baltimore, MD 21244-1850

RE: CMS-6082-NC- Request for Information; Reducing Administrative Burden To Put Patients Over Paperwork

Dear Administrator Verma:

The Partnership for Medicaid Home-Based Care (PMHC) is pleased to respond to your Request for Information (RFI) regarding the Patients over Paperwork Initiative. We applaud your commitment to transforming the health care delivery system, including the Medicaid program, by emphasizing patient-centered care, innovation, and outcomes. And, like the Centers for Medicaid and Medicaid Services (CMS), we believe transformative change is both necessary and achievable to improve quality, reduce costs, enhance program integrity, and strengthen access.

Towards that end, we are pleased to offer our ideas for change that we believe can do so much to reduce unnecessary administrative burdens that currently face clinicians, providers, patients and their families. Reflecting on your well-chosen words, we share your conviction that "In removing what doesn't add value, we're making room for what does." That is why, consistent with your regulatory notice, we would like to offer ideas we believe can enable operational flexibility, enhance patient care, facilitate individual preferences, simplify rules and policies for individuals and caregivers, address needs in our nation's rural communities, and resolve challenges faced by dual-eligible individuals.

By way of brief background, PMHC was established in 2015 to advance the delivery of high-quality, cost-effective Medicaid home-based care and services. Our members bring to this important quest their experience as home care providers, associations, managed care organizations, and technology providers. While such a diverse membership is somewhat unique, our members have come together due to a shared commitment to support legislative and regulatory efforts that improve the quality, accessibility, and integrity of home and community-based care and services in Medicaid.

It is precisely because the Patients over Paperwork initiative can make a significant contribution to these outcomes that we are grateful for this opportunity to offer our perspective and proposals. As you know, the Medicaid program enables the delivery of clinically effective, patient-centered, and

fiscally efficient Home and Community-Based Services (HCBS). As a result, millions of older Americans and individuals with disabilities are able to remain in their homes where they most want to be. At the same time, HCBS has saved billions of dollars for federal and state taxpayers by reducing the need for high-cost institutional care.

Despite this progress, however, Medicaid home and community-based care still does not reach enough of the many institutionalized Americans who would benefit from it – and, often, the reason is that outdated policies place paperwork before patients. Indeed, it is widely held that the Medicaid program is hampered by its outdated reliance on costly institutional care. When Medicaid was established in 1965, placement of individuals in nursing homes was made a default mandate due to the dearth of other options. Much has changed in the last half-century, however, and the clinical and technological advances achieved since then have made home and community-based care a clinically and fiscally superior alternative for many Americans. Nevertheless, these advances remain under-utilized due to outdated policies and rules.

As a result, we believe modernization needs to occur in order to place patients over paperwork and make high-quality, patient-centric, cost-saving home care available to all those who need it.

We respectfully submit that such modernization is of crucial importance, especially given CMS' mission to emphasize patient-centered care, foster innovation, and improve outcomes. After all, empowering individuals to remain at home is the very definition of truly person-centered care for those needing long term services and supports. According to AARP, the vast majority of American seniors prefer to receive care at home rather than in an institution. And yet, the healthcare system often gives consumers little choice in where they will receive their care. Instead, it ushers elderly Americans and individuals with disabilities toward institutional settings even if they could receive high-quality, less-costly care in the comfort, security, and familiarity of their own home.

Similarly, many states are compelled by outdated rules to funnel people who desire independence into more expensive and unwanted nursing homes rather than allowing them to remain in their homes. Under these archaic policies, states are obligated to provide nursing home access to anyone who needs that level of care, but no such default exists for home and community based services. In fact, individual access to HCBS is frequently restricted by different eligibility standards and enrollment limits. In short, current Medicaid policy is preventing states from allowing individuals to receive the care they need in the setting they want while imposing a higher cost upon taxpayers.

We therefore urge the Agency to use its considerable authority to realize the goals of the Patients over Paperwork Initiative by correcting this longstanding problem. Providing individuals with equal, if not preferred, access to home-based care over institutionalization would do much to advance person-centered care and align with the focus of the Patients over Paperwork Initiative. Specifically, we recommend that this be accomplished by adopting a "Home Care Option" model, a person-centered approach that would enable individuals to be screened to assess their suitability for home-based care, rather than institutional placement.

At present, nursing facility residents are assessed on admission and periodically thereafter using the Minimum Data Set (MDS) Assessment, which includes Question Q1a: "Resident expresses or indicates

preference to return to the community." Although this may have been intended to enable individuals to return home, the MDS is typically conducted by a licensed health care professional employed by the nursing home. As a result, current policy creates a conflict of interest because every consumer who leaves represents lost revenue for the nursing home. Nursing homes have therefore underperformed when it comes to this screening, resulting in a potentially biased view of whether an individual can live in the community and inadequate effort to secure resources that could aid in their transition.

As a corrective measure, we recommend piloting a nursing facility resident housing preference screening model that is conducted by an independent, conflict-free entity, such as Managed Long Term Services and Supports (MLTSS) plan transition staff, Centers for Independent Living (CILs), Area Agencies on Aging (AAAs), or other MFP Transition Coordination Entities (TCEs). By way of example, TCEs are charged with helping eligible nursing home residents transition to the community under the Money Follows the Person (MFP) program. Since they are already familiar with the requirements for a successful transition, TCEs could provide a second opinion to serve as a check on the nursing home assessment.

Hospitals could fulfill this function, too, and similarly serve as an important check on the nursing home's assessment. When nursing home residents go to the hospital for planned or emergency care, discharge planners could assess them to determine if they are suitable candidates for a transition to the community, rather than immediately shuttle them back to the nursing home.

In addition to improving the current screening process, the Home Care Option model would also ideally include other mechanisms to ensure that HCBS-suitable individuals are not institutionalized. For example, we recommend CMS consider providing incentives to states for creating eligibility rules that favor HCBS. This may include a more standardized approach to establishing income limits, particularly in a way that recognizes costs associated with remaining in the community, such as food, utilities, tax, rent or mortgage, and repair costs that are not borne by individuals who reside in a nursing home.

We also recommend incentivizing states to provide for HCBS presumptive eligibility. State-funded programs like that of Washington State have yielded savings that far outweigh the cost associated with unfunded care due to incorrect presumption of eligibility. Although the Deficit Reduction Act of 2005 and the Affordable Care Act of 2010 gave states the flexibility to provide up to 60 days of presumptive eligibility for HCBS, many states have not yet taken advantage of this option due to the complex paperwork associated with it. By streamlining this process, delays in establishing an individual's financial eligibility for Medicaid HCBS can be eliminated and the expense of unnecessary and unwanted nursing home admissions can be avoided.

Further, we recommend consideration be given to mechanisms ensuring nursing home compliance with these patient-centered reforms. For example, any nursing home whose assessments on resident suitability for HCBS routinely fail to match the independent evaluator assessments should be penalized. One option may be to reduce the Medicare and/or Medicaid payments to that nursing home by a specified percentage or amount over the subsequent calendar year, in a manner similar to the Medicare Hospital Readmissions Reduction Program. This would incentivize nursing homes to

conduct complete and unbiased assessments while generating savings to the program, either through increased use of lower-cost HCBS or by the amount of the cumulative fines. Just as important, it would strengthen the integrity of the Medicaid program by ensuring these assessments are conducted in an objective and accurate manner and by confirming that costly nursing home care is delivered solely to those who are not suitable for non-institutional placement.

Finally, we would like to underscore another area in which the Home Care Option model closely aligns with the Agency's Patients over Paperwork objectives: cost savings. It is well-documented that HCBS delivers net savings when utilized in lieu of institutional care. Indeed, studies conducted by expert entities including CMS, AARP, Avalere, and the Lewin Group have all determined that increased use of HCBS correlates with reduced institutional admissions, improved cost containment, and reduced spending growth. As a result, modernizing Medicaid consistent with this initiative has the power to produce substantial program savings.

In closing, we would like to revisit the quote with which we opened this letter: "In removing what doesn't add value, we're making room for what does." We simple could not agree more! Modernizing Medicaid to place patients over paperwork can and should entail removing the nursing home default that is no longer needed and actually *erodes* value from the program. And in doing so, CMS will make room for patient-centered policies that enable individuals to exercise their preference for high-quality, cost-saving home-based care. While such action will be transformative all across America, its benefits will be especially felt in rural communities where institutional settings are miles and hours away as well as in low-income centers where many seniors are dually enrolled in Medicare and Medicaid coverage.

Thank you again for this opportunity to share our ideas and perspectives. We share your confidence that the Patients over Paperwork Initiative can have a transformative effect for consumers, their families, caregivers, and taxpayers alike. That said, we also recognize that bold action consistent with this mission, such as the Home Care Option model described above, is not immune to opposition by those preferring the status quo. But it is precisely because the status quo so poorly serves so many that we urge you to press on and achieve the much-needed progress this initiative is designed to make possible.

We hope our ideas will be of value to you as this vital initiative proceeds, and we stand by to serve as a resource in any way you or your team may need.

Sincerely,

David J. Totaro, Chair

cc: Members, Partnership for Medicaid Home-Based Care