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National Hispanic Medical Association

March 2, 2020

The Honorable Seema Verma  
Administrator

Centers for Medicare & Medicaid Services

U.S. Department of Health and Human Services

200 Independence Avenue, SW

Washington, DC 20201

RE: Comments to Proposed Rule – Patient Protection and Affordable Care Act; HHS  
Notice of Benefit and Payment Parameters for 2021.

On behalf of millions of Hispanic Americans and underserved communities across the United States who struggle every day with serious illnesses, we are writing to express our sincere concerns regarding aspects of the recently proposed Notice of Benefit and Payment Parameters (NBPP) for 2021. Specifically, the proposed reversal of the 2020 NBPP that requires manufacturer coupons be counted towards patients' annual limitation on cost sharing in cases where a medically appropriate generic equivalent is not available. This reversal would be devastating to the Hispanic community by increasing patients' out-of-pocket costs and harm their access to life saving treatments and therapies. In addition, it would encourage health plans and pharmacy benefit managers to operate accumulator adjustment programs, which keep coupons from helping patients hit their out-of-pocket maximums. If patients can't hit their maximum, this makes it much more difficult to afford and adhere to their treatment plans.

Furthermore, the Department of Health and Human Services (HHS) is incorrectly interpreting a 2004 IRS notice, claiming that complying with the 2020 NBPP final rule's policy on coupons would conflict with requirements for high deductible health plans with health savings accounts. HHS incorrectly interprets that IRS notice as addressing manufacturer cost-sharing assistance, instead it discusses discount programs that provide enrollees access to discounted rates at the pharmacy. This incorrect interpretation is likely to mislead health plans and encourage them to exclude amounts paid by coupons from cost sharing, exposing patients to massive out-of-pocket costs and limited access to essential medications.

Currently, there are various forms of assistance to help cover the costs of medication prescribed by a physician, and patients should not be punished for using this assistance. This assistance is imperative for those living with complex and chronic conditions to ensure they're afforded the opportunity to access lifesaving treatments prescribed by their physician. Copay assistance ensures stability in patients' health conditions, helping avoid declining health or relapses, and achieving a continuity of care. We believe the changes under the NBPP Proposed Rule are arbitrary, unfair, and would increase—rather than reduce—health care costs.

Additionally, we fear this rule would create significant interference with the doctor-patient relationship and physicians would be limited in their ability to make the best decisions for their patients. Policymakers should focus on enhancing access and affordability for prescription drugs, rather than promoting regressive proposals that hurt patients by increasing out-of-pocket spending and decreasing access to quality care their doctors prescribe.

We are also concern that changes in risk adjustment and exchange eligibility for health plans should expand and not decrease the individual and small group markets in our populations who have a great need for coverage in these markets.

Therefore, we strongly urge the Centers for Medicare and Medicaid Services (CMS) to not finalize these proposed changes, and instead move forward with enforcing the 2020 NBPP final rule's policy. We all must work to help those most vulnerable obtain and maintain access to the prescribed care and treatment they need, and we should avoid policies that impede—rather than improve—such access. CMS and HHS must choose to prioritize patients' needs when considering these policies and developing the final rule.

Sincerely,



Elena Rios, MD, MSPH, FACP  
President & CEO  
National Hispanic Medical Association