September 19, 2019

Administrator Seema Verma
Centers for Medicare &
Medicaid Services, Department of
Health and Human Services
Attention: CMS–1715–P
P.O. Box 8016
Baltimore, MD 21244–8016

Attention: CMS–1715–P

Dear Administrator Verma:

On behalf of the Council of Academic Family Medicine (CAFM), including the Society of Teachers of Family Medicine, Association of Departments of Family Medicine, Association of Family Medicine Residency Directors, the North American Primary Care Research Group, we offer comments on the August 14th, Proposed Rule: *Medicare Program; CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicaid Promoting Interoperability Program Requirements for Eligible Professionals; Establishment of an Ambulance Data Collection System; Updates to the Quality Payment Program; Medicare Enrollment of Opioid Treatment Programs and Enhancements to Provider Enrollment Regulations Concerning Improper Prescribing and Patient Harm; and Amendments to Physician Self-Referral Law Advisory Opinion Regulations.*

Most of our comments relate to two sections of the proposed rule: Physician Supervision for Physician Assistant (PA) Services (section II.I.), and Review and Verification of Medical Record Documentation (section II.J.) In addition, we would like to associate our organizations with the American Academy of Family Physicians comments regarding Office/Outpatient Evaluation and Management (E/M) Coding.

Physician Supervision for Physician Assistant (PA) Services (section II.I.), and Review and Verification of Medical Record Documentation (section II.J.)

We sincerely appreciate the effort made by CMS to be inclusive of all members of the care team in the ability to document in the medical record. We also appreciate the ability of physicians, PAs and APRNs to oversee students and not redocument those students' documentation. We believe CMS has made great strides in this regard. We have a couple of suggestions however to address these issues so that CMS doesn't unintentionally increase administrative burden. Currently, clinicians do not need to "re-perform" history obtained by the nurse/MA/LPN, and even the resident in particular situations. Since there was no prior guidance on documentation under the §§ 410.20 (Physicians' services), 410.74 (PA services), 410.75 (NP services), 410.76 (CNS services) and 410.77 (CNM services) components, we do not want to increase administrative burden by making clinicians re-perform services as a way to verify, for all these care providers, except in the case of students.

Review of other's work should be sufficient, and CMS should clarify that the need to perform or re-perform is limited to the physical exam and medical decision-making **of students** (in all these

Hope R. Wittenberg
Director, Government Relations 1133 Connecticut Ave. NW, Suite 1100 Washington, DC 20036 Ph: 202.986.3309 hwittenberg@stfm.org

disciplines), not for the work of all members of the care team. There are students in all health professions noted: physician, NP, PA, CNS and CNM, and they should be treated uniformly. We recognize that students need special supervision and that clinicians are not paid based on the work done by students. Based on the student documentation language in Transmittal 3971 mentioned above, we feel CMS requires performance or re-performance of the physical exam and medical decision making by the teaching physician in order to bill for the work of the visit and to have the means to confirm or edit the accuracy of the students' documentation. However, in the proposed rule the language seems to conflate the term verify with the requirement to review and sign/date. We have included below specific wording changes we suggest CMS adopt in their proposed language to ensure that such conflation is remedied.

Specifically, on page 40548 of the August 14th proposed rule, in the middle column, we recommend the following language. We have struck through the words "and verify" and added a few words and a sentence (underlined and in color):

> Specifically, to reflect our simplified and standardized approach to medical record documentation for all professional services furnished by physicians, PAs and APRNs paid under the PFS, we are proposing to amend §§ 410.20 (Physicians' services), 410.74 (PA services), 410.75 (NP services), 410.76 (CNS services) and 410.77 (CNM services) to add a new paragraph entitled, "Medical record documentation." This paragraph would specify that, when furnishing their professional services, the clinician may review, sign, and date ~~and verify~~ ~~(sign/date)~~ notes in a patient's medical record made by other physicians, residents, .nurses, students, or other members of the medical team, including notes documenting the practitioner's presence and participation in the services, rather than fully re-documenting the information. The clinician must personally perform or re-preform any physical exam or medical decision-making done by students. We note that, while the proposed change addresses who may document services in the medical record, subject to review and verification by the furnishing and billing clinician, it does not modify the scope of, or standards for, the documentation that is needed in the medical record to demonstrate medical necessity of services, or otherwise for purposes of appropriate medical recordkeeping.

In a separate, but related, issue, we ask that CMS include scenarios we recommend below, in the teaching physician guidelines and/or transmittal, to help illuminate two questions related to student documentation that we hope to have clarified by CMS. One relates to the question of physical presence; the other is how to incorporate the work of residents in the student documentation issue. We believe this clarification is necessary to provide adequate guidance to teaching physicians and compliance officers regarding the language of CMS's transmittal #3971. Our recommended scenarios cover all permutations of teaching physician, student and resident interaction. Should CMS wish, it could also modify the scenarios to describe the billing clinician, rather than the teaching physician, and include them under the previously noted sections (410.74 (PA services), 410.75 (NP services), 410.76 (CNS services) and 410.77 (CNM services)) dealing with other members of the care team that train students.

Lastly, we would like to associate our organizations with the comments submitted by the American Academy of Family Physicians regarding Office/Outpatient Evaluation and Management (E/M) Coding. The AAFP and our organizations "support the adoption of the work relative value units (RVUs) recommended by the RVU Update Committee (RUC) for all the office/outpatient E/M codes, the new prolonged services add-on code, and CMS' proposal to maintain separate values for levels two through four visits rather than implement its plan for a blended payment rate for those services. However, since most family medicine practices already operate on extremely thin margins and these services have

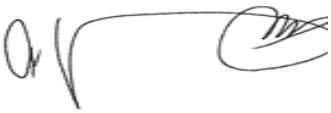
been undervalued for decades, we implore CMS to implement these changes in 2020 rather than 2021 as proposed."

We appreciate the opportunity to submit these comments. Please contact Hope Wittenberg, CAFM Director, Government Relations (202)986-3309 or hwittenberg@stfm.org should you have any questions or require additional information.

Sincerely,

Freddy Chen, MD, MPH
President
Society of Teachers of
Family Medicine

Deborah S Clements, MD
President
Association of Family
Medicine Residency Directors



Allen Perkins, MD, MPH
President
Association of Departments
of Family Medicine

Judith Belle Brown, PhD
President
North American Primary Care
Research Group

Scenarios from https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2018Downloads/R4068CP.pdf but edited for inclusion of students and/or students and residents and the changes in Transmittal R4283CP, dated August 26, 2019.

Scenario 1: The teaching physician personally performs all the required elements of an E/M service without a student. In this scenario the student may or may not have performed an E/M service independently. In the absence of documentation by a student, the teaching physician must document as he/she would document an E/M service in a nonteaching setting.

Scenario 2: The student performs the elements required for an E/M service in the presence of, or jointly with, the teaching physician and the student documents the service. The teaching physician performs or re-performs the HPI and the physical exam and participates in the medical decision making. The teaching physician verifies* the student's entry in the patient's record. For payment, the composite note must support the medical necessity and the level of the service billed by the teaching physician.

Scenario 3: The student performs some or all of the required elements of the service in the absence of the teaching physician and documents in the patient record. The teaching physician independently

performs the HPI, the physical exam, and medical decision making with or without the student present. The teaching physician verifies* the student's entry in the patient's record. For payment, the composite note must support the medical necessity and the level of the service billed by the teaching physician.

Scenario 4: The student performs some or all of the required elements of the service in the presence of, jointly with, or in the absence of the resident and documents in the patient record. The resident performs some or all of the required elements of the service in the absence of the teaching physician with or without the student present. The resident verifies* the student's entry in the patient's record and attests that he/she (the resident) performed the required elements of the service. The teaching physician independently performs the critical or key portions of the service and participates in the management of the patient. The teaching physician verifies* the composite entry in the patient's record. For payment, the composite note must support the medical necessity and the level of the service billed by the teaching physician.

Scenario 5: The student performs some or all of the required elements of the service in the presence of, jointly with, or in the absence of the resident and documents in the patient record. The resident performs some or all of the required elements of the service in the presence of, or jointly with the teaching physician with or without the student present. The resident verifies* the student note and attests that he/she (the resident) performed the required elements of the service. The teaching physician verifies* the composite entry in the patient's record. For payment, the composite note must support the medical necessity and the level of the service billed by the teaching physician.

*Verify: review and ensure the documentation is true and accurate. This includes editing as needed.