ABHW
Advancing Health Care Policy for
Mental Health & Substance Use Disorders

September 9, 2024

Ms. Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-2439-P
PO Box 8016, Baltimore, MD 21244-8016

Re: Medicare and Medicaid Programs; Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; CMS-1809-P

Dear Administrator Brooks-LaSure:

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to submit comments on the Centers for Medicare & Medicaid Services (CMS) Notice of Proposed Rulemaking (NPRM or proposed rule) for the Calendar Year 2025 (CY 25) Medicare Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems (OPPS).

ABHW is the national voice for payers managing behavioral health insurance benefits. ABHW member companies provide coverage to approximately 200 million people in the public and private sectors to treat mental health (MH), substance use disorders (SUDs), and other behaviors that impact health and wellness.

Our organization aims to increase access to timely, quality, and appropriate care, drive integration, support prevention, advance health equity, raise awareness and reduce stigma, and foster evidence-based treatment and innovation. Please see details about the OPPS behavioral health provisions below.

I. Remote Patient Monitoring

The proposed rule clarifies that for OPPS payment for services furnished remotely by hospital staff to individuals in their homes, including remotely furnished for MH services, CMS would anticipate aligning requirements with those associated with Medicare telehealth and billed under the PFS. CMS reiterates to the extent that the in-person MH visit requirements (that are supposed to be effective January 2025) are delayed in the future for professionals billing for MH services via Medicare telehealth; CMS would align the requirements for MH services furnished remotely to beneficiaries in their homes through communications technology with MH services furnished via Medicare telehealth in future rulemaking.

As we shared in our CY 25 PFS comment letter, ABHW understands that CMS has limited authority and has to defer to Congress to make telehealth flexibilities more permanent. However, some

current Medicare laws and regulations unnecessarily limit access to and coverage of telehealth services and should be permanently changed. **ABHW continues to advocate for Congress to remove the in-person requirement for MH services via telehealth. Requiring in-person visits can be a barrier to accessing necessary care, especially for individuals with MH conditions. This requirement will exacerbate healthcare disparities and impede access for rural populations, older adults, and low-income residents. A blanket requirement for in-person sessions may hinder access for those unable to travel for in-person care or those concerned about the stigma of receiving MH services.**

II. Proposal to Publicly Report the Median Time from Emergency Department Arrival to Emergency Department Discharge for Psychiatric/Mental Health Patients Strata on Care Compare

CMS proposes to make the median time from the emergency department (ED) data for the psychiatric/MH patients' stratification available on Care Compare on Medicare.gov, beginning in CY 2025. This includes previously published data on data.medicare.gov but not displayed on the Care Compare site. **ABHW members support transparency in sharing data from EDs regarding arrival to discharge for MH patients. This data will help improve behavioral health care access and ensure patients receive timely, appropriate care**.

III. Medicaid Clinic Service Four Walls Exception

ABHW applauds CMS's intention to improve behavioral health access for services furnished outside the "four walls" of a freestanding clinic by the Indian Health Service (HIS) and Tribal Clinics. Nonetheless, we are concerned about the budgetary impacts of policies designed to increase provider rates. **If this proposal is finalized, CMS should reinforce the importance of states meeting the statutory actuarial soundness requirement during the annual rate-setting process or as a mid-year rate update if warranted when payments for clinic services are made through managed care.**

Conclusion

Thank you for the opportunity to comment on the behavioral health provisions in the CY 25 OPPS. ABHW is committed to working with CMS and other partners to improve access to behavioral health treatment for all Americans. If you have questions, please contact Kathryn Cohen, Senior Director of Regulatory Affairs, at cohen@abhw.org.

Sincerely,

Pamela Greenberg

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President and CEO