

June 4, 2021

The Honorable Chiquita Brooks-LaSure,
Administrator, Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8013
Baltimore, MD 21244-1850

Submitted electronically to www.regulations.gov

Re: Medicare Program; Inpatient Rehabilitation Facility (IRF) Prospective Payment System for Federal Fiscal Year 2022 and Updates to the IRF Quality Reporting Program [CMS-1748-P]

Dear Administrator Brooks-LaSure:

The American Nurses Association (ANA) appreciates the opportunity to provide comment on the Centers for Medicare & Medicaid Services' (CMS') IRF Prospective Payment System for federal fiscal year (FFY) 2022 and Updates to the IRF Quality Reporting Program proposed rule. As the agency considers which provisions to finalize, through this comment letter we urge CMS to:

- **Not finalize reporting requirements on vaccination data among IRF health care personnel (HCP), and**
- **Work closely with nurses to identify and implement reporting requirements that adequately assess areas of improvement to achieve health equity in the nation's health care delivery system.**

1. CMS Must Not Finalize Reporting Requirements on HCP COVID-19 Vaccination Data.

HHS proposes to collect COVID-19 vaccination data on Medicare IRFs' health care workforce beginning in the third quarter of calendar year 2021. IRFs would be required to report quarterly on the cumulative number of HCP who have been fully vaccinated for at least one day during the reporting period. For quality measurement purposes, this measure is referred to as MUC20-0044. HHS proposes to publicly report on MUC20-0044 at the facility level on the Medicare Compare website, starting in 2023.

ANA opposes requiring Medicare IRFs to report COVID-19 vaccination rates for health care personnel for payment purposes as part of the Quality Reporting Program (QRP). While we acknowledge the value of this information for public health and educational purposes, we believe it would not be appropriate at this time to report publicly on MUC20-044 for the purposes of assessing IRF quality performance. ANA urges CMS to reject QRP reporting on MUC20-0044 in the final IRF payment rule.

MUC20-0044 Has Not Been Tested and Evaluated for Endorsement.

We are concerned that the measure was developed for public health tracking during a public health emergency, not for quality assessment or payment purposes. Moreover, this new measure has not been tested or submitted for endorsement to the National Quality Forum (NQF). The Post-Acute Care/Long-Term Care Workgroup of the Measures Application Partnership (MAP), which considered Medicare measures for 2021, advised in another care setting: "Prior to use in the skilled nursing facility QRP, this important measure should have the supporting evidence well-documented, and be fully developed,

followed by testing and receipt of NQF endorsement against use of MUC00-44 for payment purposes, absent further testing and submission for endorsement.”¹

The current state of vaccine science and safety regulation in 2021 is fast-moving and fluid, especially considering the COVID-19 pandemic. For example, the Food and Drug Administration (FDA) has yet to fully approve any vaccination against the COVID-19 virus. Given the uncertainty, we believe it would not be appropriate to use this measure for quality assessment or payment purposes at this time. As noted by the MAP subgroup: “The durability of immunological response is not currently well understood but may weaken quickly, suggesting that COVID-19 vaccination rates may be a long-term measurement issue.”²

Early Reporting on MUC20-0044 Has Questionable Information Value and Could Result in Coercing HCP.

Given the fluidity of the coronavirus pandemic and the very early stage of development of MUC00-44, it is not clear that incorporating 2021 vaccination rates for HCP into quality ratings on Medicare Compare in 2023 would provide valuable information to IRF residents and their families.

ANA is concerned, however, that requiring IRFs to report this information for payment purposes could create incentives for IRF employers to coerce and intimidate HCP who decline the vaccine. We cannot endorse addressing vaccine hesitancy by such means. Further, it is not clear how COVID-19 vaccinations will be financed in the future, and whether HCP will be required to pay out of pocket for vaccines and boosters.

For these reasons, we urge CMS not to finalize its proposal to require IRFs to report on MUC20-0044, HCP vaccination data, at this time.

2. CMS Must Work with Nurses on Reporting Measures and Subsequent Work to Address Health Equity.

CMS is seeking information on changes to the IRF Quality Reporting Program (QRP) that will enable comprehensive and actionable reporting of health disparities. ANA supports the agency’s request for more information to address the important issue of closing the health equity gap. Registered nurses, in addition to providing quality care to patients, often serve as advocates for their patients and are best positioned to identify factors that could result in inequitable health outcomes. Nurses also reflect the people and communities they serve—allowing them to recognize the challenges faced by their patients and ensure that their patients receive culturally competent, equitable health care services.

Nurses are also leaders in implementing processes that further quality patient care and highlight existing gaps in care delivery, leading to measurable improvements. As the agency looks to identify areas in care delivery that result in or exacerbate health disparities, we encourage CMS to work with nurses on which reporting measures and other patient demographic information should be captured. For example, the

¹ National Quality Forum (NQF). MAP PAC/LTC Preliminary Analysis Worksheet. Accessible online at <https://www.qualityforum.org/ProjectMaterials.aspx?projectID=75370>. The full MAP disregarded this advice and offered conditional support for use of the measure for QRPs in a number of rulemakings, including the SNF payment rulemaking. See NQF. Measure Applications Partnership 2020-2021 Considerations for Implementing Measures in Federal Programs: Clinician, Hospital & PAC/LTC. March 2021. Accessible online at https://www.qualityforum.org/Publications/2021/03/MAP_2020-2021_Considerations_for_Implementing_Measures_Final_Report_-_Clinicians,_Hospitals,_and_PAC-LTC.aspx.

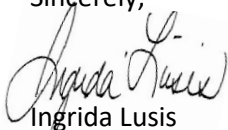
² NQF. https://www.qualityforum.org/Publications/2021/03/MAP_2020-2021_Considerations_for_Implementing_Measures_Final_Report_-_Clinicians,_Hospitals,_and_PAC-LTC.aspx

agency could consider incorporating measures that capture socio-demographic factors, such as food insecurity. Other reported measures could include identifying barriers in connected vulnerable patients to needed services in other health care settings or in the community that are critical in ensuring equitable health outcomes, such as stable, supportive housing post-discharge. Collecting this type of information will allow for a more complete assessment of existing issues and factors leading to inequitable care delivery and then work toward a holistic approach to closing the health equity gap. As such, we encourage CMS to leverage the important role of the nurse in identifying and capturing measures to address health equity.

ANA is the premier organization representing the interests of the nation's over 4 million registered nurses (RNs), through its state and constituent member associations, organizational affiliates, and individual members. ANA members also include the four advanced practice registered nurse roles (APRNs): nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives (CNMs), and certified registered nurse anesthetists (CRNAs). ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. RNs serve in multiple direct care, care coordination, and administration leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care, and provide advice and emotional support to patients and their family members.

ANA appreciates the opportunity to submit these comments and looks forward to continued engagement with CMS. Please contact me at (301) 628-5081 or Ingrid.Lusis@ana.org, with any questions.

Sincerely,



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Vice President, Policy and Government Affairs

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