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Submitted electronically via www.regulations.gov.

Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1859

RE: CMS-1770-P, Medicare and Medicaid Programs: Calendar Year 2023 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies, Medicare Shared Savings Program Requirements, etc.

Dear Administrator Brooks-LaSure:

The Conference of Boston Teaching Hospitals, on behalf of our 12 member hospitals, appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) Medicare Physician Fee Schedule (PFS) proposed rule for calendar year (CY) 2023.

Payment Updates
CMS proposes a conversion factor of $33.0775, a decrease of nearly -4.5%. On top of this cut, physicians may be subject to an additional 4% cut in 2023 due to PAYGO, resulting in a total payment reduction of -8.5%. We are deeply concerned about these significant payment cuts. Payment reductions of this magnitude would be concerning at any time, but are especially troubling while health care professionals continue to be on the front lines of treating patients with COVID-19, alongside other emerging infectious diseases. The financial impacts of COVID-19 have been significant, from increased operating costs to lower patient volume, and physicians are still working to recover from these burdens.

Given the unprecedented challenges facing physicians and the critical importance of preserving patient access to health care services, we encourage CMS to support efforts to urge Congress to provide a 4.5% increase to the conversion factor for 2023, and to prevent additional reductions in 2023 due to PAYGO.

Split (Shared) Visits
We were pleased to see CMS delay the implementation of the substantive portion of a split (or shared) visit being defined by 50% of total time until 2024. We support CMS allowing the substantive portion of the visit to be based on medical-decision making. While we understand that time may be a more straightforward indicator, it does not appropriately account for physician ability to efficiently synthesize complex medical problems and take appropriate action. Non-physician providers are often involved in tasks that require significant time, such as taking patient histories,

performing physical exams, or preparing medical records. These tasks are critical to patient care, but the substance of the visit – synthesizing patient information and making a plan of care – are typically done by a physician. We are also concerned that tracking the exact time spent by two different providers to determine who can bill for the visit will be burdensome for providers and complicated to implement. We thank CMS for the delay of the 50% of total time definition and urge the agency to continue use of medical-decision making to determine billing for a split (or shared) visit beyond 2023.

Telehealth

In response to the COVID-19 pandemic, COBTH's member hospitals temporarily suspended all in-person scheduled procedures and non-emergency care to expand their capacity to meet the needs of severely ill COVID-19 patients. In order to continue to safely meet patient needs, our members relied on the use of telehealth pursuant to state and federal guidance and flexibilities. Now, more than two years into the COVID-19 response, telehealth remains an integral part of the strategy to ensure that high quality care is safely available to our patients. Not only is telehealth convenient for clinicians and patients alike, in many instances it helps keep patients and hospital staff safe. Utilization of telehealth has surged in Massachusetts since the declaration of a Public Health Emergency out of necessity, but we must not overlook the manifold benefits that telehealth continues to offer.

We appreciate CMS's effort to implement the policies in the Consolidated Appropriations Act of 2022, including extending flexibilities for telehealth services for 151 days beyond the expiration of the federal Public Health Emergency (PHE). These flexibilities are critical to our ability to provide telehealth services to Medicare patients, and this update provides our clinicians and support staff with some certainty about the availability of these services. However, COBTH strongly supports a longer extension of these policies, and urges CMS to work with Congress to extend these flexibilities for at least two years following the end of the PHE. We also support legislative efforts to eliminate the requirement that an in-person visit be furnished every six months in order to continue receiving mental health services via telehealth, as well as to eliminate Medicare's originating site requirements. These requirements put unnecessary barriers between patients and telehealth services, and will only result in patients foregoing necessary care if left in place after the end of the PHE.

CMS also proposes to add a number of services to the Category 3 telehealth list, allowing coverage for these services until the end of 2023, and giving the agency time to collect additional data. This proposal gives providers needed certainty to continue scheduling and providing these services via telehealth, and will continue to add to the evidence for potential inclusion on the Category 1 and 2 lists. We continue to urge CMS to take a broad look at what is appropriate to be included via telehealth, as providers have demonstrated throughout the COVID-19 PHE that a vast array of services can be safely and effectively provided to patients via telehealth.

COBTH's member hospitals are deeply concerned about CMS's proposal to end reimbursement for non-telemental health audio-only telehealth services after the end of the PHE. This proposal would require two-way interactive audio-video technology to be used during a telehealth visit. Audio-only telehealth is critical to reaching older, lower income, and rurally-based patients who may lack access to technology, broadband, or the digital literacy needed to successfully complete an

interactive audio-video visit. We strongly believe that clinicians should have discretion as to whether the visit can be successfully completed with audio only, and that the agency should not wholesale eliminate coverage for services based on the modality. Audio-only telehealth visits have proven critical to reaching underserved populations in Massachusetts and across the country, and we strongly urge CMS to reconsider elimination of reimbursement for these services. While we understand the Social Security Act may constrain the agency's ability to continue reimbursement outside of the PHE, we hope CMS will consider ways to continue these services, or work with Congress to ensure access to audio-only telehealth remains in place.

We were also disappointed to see CMS propose ending virtual direct supervision after the end of the PHE. COBTH member hospitals have successfully used the flexibility provided by CMS to safely and effectively provide direct supervision to physician trainees. While we agree that virtual supervision may not be appropriate in every instance, we do believe there are certain low-risk services that can be appropriately supervised via interactive audio-video technology, and that the decision to do so can be safely made at the discretion of the provider. We encourage CMS to continue to allow virtual direct supervision beyond the end of the PHE.

Behavioral Health

Finally, we are grateful for the agency's efforts to expand access to mental health services through the proposed rule. Our hospitals are on the frontlines of the increased mental health needs of our population resulting from the isolation and stress caused by the COVID-19 pandemic. As CMS notes in the proposed rule, the behavioral health workforce is feeling the tremendous burden of the increased needs of our population, and is in need of support. To that end, COBTH supports CMS's proposals to allow licensed professional counselors and licensed marriage and family therapists to provide mental health services under general supervision. COBTH also supports the creation of a new general behavioral health integration service for clinical psychologists and clinical social workers to perform care integration.

Thank you for your consideration of our comments. COBTH's member hospitals are also members of the Association of American Medical Colleges (AAMC) and strongly support the in-depth comments submitted by AAMC on behalf of the nation's academic medical centers and teaching hospitals. Please do not hesitate to be in touch with any questions or if we can provide additional information on these or other matters.

Sincerely,

Patricia McMullin
Executive Director
Conference of Boston Teaching Hospitals

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