September 2, 2022

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

RE: Medicare and Medicaid Programs; CY 2023 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicare and Medicaid Provider Enrollment Policies, Including for Skilled Nursing Facilities; Conditions of Payment for Suppliers of Durable Medicaid Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); and Implementing Requirements for Manufacturers of Certain Single-Dose Container or Single-Use Package Drugs To Provide Refunds With Respect to Discarded Amounts [CMS-1770-P]

On behalf of the American Association of Psychiatric Pharmacists (AAPP) (formerly known as the College of Psychiatric and Neurologic Pharmacists), we appreciate the opportunity to provide feedback on the Centers for Medicare and Medicaid Services' (CMS) 2023 Physician Fee Schedule Proposed Rule. We also laud CMS for seeking to remove barriers and increase access to mental health and substance use services in keeping with CMS' behavioral health strategy.

AAPP is a professional association of nearly 3,000 members who envision a world where all individuals living with mental illness, including those with substance use disorders (SUD), receive safe, appropriate, and effective treatment. Members are pharmacists who specialize in psychiatry, substance use disorders (SUDs), and psychopharmacology. The majority are residency trained and credentialed as Board Certified Psychiatric Pharmacists (BCPP). Psychiatric pharmacists have specialized training in providing direct patient care and medication management for the complete range of psychiatric and SUD. With a significant shortage of mental health care professionals, psychiatric pharmacists offer another resource to improve outcomes for patients with psychiatric and SUD.

Psychiatric pharmacists are an important member of the health care team working in collaboration with the patient and other health care providers including psychiatrists, other physicians, therapists, social workers, and nurses. Psychiatric pharmacists provide expert, evidence base Comprehensive Medication Management (CMM) services for the most complex patients with mental health and substance use disorders. Psychiatric pharmacists increase capacity of the health care team to care, provide psychopharmacology expertise, as well as improve patient outcomes and reduce overall health care costs.

AAPP respectfully provides our comments on the proposed rule as follows:

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Payment for Medicare Telehealth Services Under Section 1834(m) of the Act

The COVID-19 public health emergency (PHE) prompted a transformation in the delivery of mental and behavioral health services. Without the current Medicare telehealth coverage flexibilities, many beneficiaries would have lost access to mental and behavioral health services at time of extreme stress and vulnerability.

AAPP thanks CMS for the ongoing Medicare coverage flexibilities concerning telehealth, including but not limited to, allowing individuals to receive services from their own homes, allowing more services to be furnished via telehealth, and allowing patients to use audio-only devices. Given the long-term mental health impact of the COVID-19 pandemic, AAPP believes CMS must ensure that flexibilities remain available to Medicare beneficiaries after the formal end of the COVID-19 PHE.

Services Proposed for Removal From the Medicare Telehealth Services List After 151 Days Following the End of the PHE

AAPP supports CMS's proposal to extend the availability of Medicare's temporary telehealth services for 151 days after the end of the PHE. This will allow for the continuation of coverage of those services that are temporarily covered until the expiration of the PHE rather than an abrupt end mid-way through the year. AAPP appreciates that the proposal provides additional time to collect more information regarding utilization of these services, especially because that data will be collected at a time when individuals will be more likely able to utilize services as they did pre-pandemic. We support the data to be used to develop supporting evidence to retain and make permanent the telehealth flexibilities extended during the COVID-19 pandemic.

Implementation of Telehealth Provision of the Consolidation Appropriations Acts, 2021 and 2022

Furthermore, the Consolidated Appropriations Act (CAA) removed the geographic restriction for Medicare telehealth services for the diagnosis, evaluation or treatment of a mental health disorder and adds the patient's home as a permissible originating site for these telehealth services. Currently, according to the CY 2021 Physician Fee Schedule final rule, payment is prohibited unless a physician or practitioner has furnished an item or service in-person within 12 months of the first telehealth visit, creating a barrier to care. AAPP believes that barriers to telehealth for mental health and substance use services should be minimal. Some people with mental health conditions have symptoms that interfere with their ability to attend in-person appointments, such as anxiety or agoraphobia, such that they may prefer telehealth visits for all of their visits. Additionally, the COVID-19 pandemic is still ongoing, which both exacerbates and underscores the vast unmet need for mental and behavioral health services and the lack of access to providers in rural and underserved areas. As such, we are hopeful that Congress will repeal this clinically unnecessary in-person requirement prior to its implementation.

AAPP also supports CMS's policy proposals related to Rural Health Centers and Federally Qualified Health Centers, including: continuing payment for telehealth services using the methodology established for telehealth services during the PHE; delaying the in-person visit requirements for mental health visits; expanding the originating site requirements to include any site in the U.S. the beneficiary is located, including the individual's home; and extending coverage and payment of telehealth services that are furnished via audio-only communications. While CMS is proposing to only have these changes effective for the 151 days following the PHE, we urge CMS to consider making these changes permanent.

Services Proposed for Removal From the Medicare Telehealth Services List After 151 Days Following the End of the PHE

AAPP supports CMS's proposal to extend the availability of Medicare's temporary telehealth services for 151 days after the end of the PHE. This will allow for the continuation of coverage of those services that are temporarily covered until the expiration of the PHE rather than an abrupt end mid-way through the year. AAPP appreciates that the proposal provides additional time to collect more information regarding utilization of these services, especially because that data will be collected at a time when individuals will be more likely able to utilize services as they did pre-pandemic. We support the data to be used to develop evidence to retain and make permanent the telehealth flexibilities extended during the COVID-19 pandemic that are proven to provide quality care.

Expiration of PHE Flexibilities for Direct Supervision Requirements

CMS proposes to allow PHE flexibilities for direct supervision to expire at the end of the PHE but continues to seek comments on whether those flexibilities should be made permanent. AAPP urges CMS to make direct supervision via telehealth a permanent option using real-time audio/video technology. We believe physician and nonphysician providers, including psychiatric pharmacists, should have the autonomy to determine when direct supervision via telehealth is clinically appropriate and in line with the relevant standard of care and that CMS should avoid adding additional provider requirements.

Furthermore, we urge CMS to consider removing the long-standing direct supervision requirement for incident-to services provided in-person (i.e. the physician must be in the same building but not necessarily in the same room). This requirement is tedious and is likely a barrier to care. Again, physicians and nonphysician providers should be allowed to exercise their professional judgment when treating patients.

<u>Valuation of Specific Codes</u>

Proposed Revisions to the "Incident to" Physicians' Services Regulation for Behavioral Health Services

AAPP applauds CMS for proposing to allow behavioral health services to be furnished under general supervision of a physician or non-physician practitioner when the services are provided by auxiliary personnel and are "incident to" the services of the physician or NPP. Pharmacists may provide services "incident to" the services of the billing physician or non-physician practitioner under § 410.26. Accordingly, AAPP urges CMS to extend the policy to psychiatric pharmacists providing in-person, incident to mental health services.

We also note the lack of sufficient reimbursement continues to stand in the way of many practices seeking to include a psychiatric pharmacist on the care team and as part of their provision of in-person and telehealth services. Medicare does not recognize clinical psychiatric pharmacists as providers and as such will not reimburse health care systems or providers who employ them for their services. In many states, this means that they also are not recognized by private insurers or Medicaid, and many health systems and providers are reluctant to add psychiatric pharmacists to their teams without the ability to be reimbursed for the services that they provide. This is to the detriment of those health systems successfully employing psychiatric pharmacists to reach rural patients. With the increase in stressors related to COVID-19 there has been an increased demand for psychiatric services in which psychiatric pharmacists could help fill that gap if there was payment for their services. One area where CMS can bridge the reimbursement gap is with reimbursement for Comprehensive Medication Management, an

integral service for those with mental health issues or substance use disorders provided by psychiatric pharmacists.

Comment Solicitation on Intensive Outpatient Mental Health Treatment, Including Substance Use Disorder (SUD) Treatment, Furnished by Intensive Outpatient Programs (IOPs)
AAPP appreciates CMS' proposal to support payment for IOP for mental health treatment, including SUD. As CMS is aware, the need for mental health and SUD services has increased during COVID-19 as has the workforce shortage in healthcare. We believe psychiatric pharmacists are positioned to be an integral part of the care team for outpatient mental health services furnished by IOPs. Our members possess not only the education and training, but they are highly trusted by patients. Furthermore, given that psychiatric pharmacists are trained to address both mental health and substance use disorders, they are often a front-line resource to keep individuals in crises safe without using a hospital setting. As such, we urge CMS to expand patient access to psychiatric pharmacists as a regular part of the IOP care team as well as consider payment for services provided by psychiatric pharmacists in IOPs. To that end, we also urge you to meet with stakeholders to determine the scope, intensity, and value of IOP services. We stand ready to work with you on this important issue.

Comment Solicitation on Payment for Behavioral Health Services Under the PFS
Psychiatric pharmacists are often overlooked for their contribution to the care team. As previously mentioned, our members provide necessary CMM for complex diagnoses and are an integral part of the care team as they improve outcomes and reduce overall health care costs. As such and in keeping with Goals 2 and 4 of the behavioral health strategy, we again urge CMS to consider avenues for reimbursement for psychiatric pharmacy services, including urging Congress to give CMS the authority to determine who can be considered a provider under Medicare and the allowable scope of services.

Modifications Related to Medicare Coverage for Opioid Use Disorder (OUD) Treatment Services Furnished by Opioid Treatment Programs (OTPs)

AAPP has historically supported the policy change that reimburses OTPs for the mobile component at an equal rate to a brick-and-mortar operation. Additionally, we are supportive of policies that allow OTPs to initiate the prescribing of buprenorphine via telehealth. We urge CMS to keep these policies in place as they expand access to treatment for OUDs to rural populations.

Thank you again for the opportunity to comment. If you have any questions, please do not hesitate to contact me or our Health Policy Consultant, Laura Hanen at lahanen@venable.com.

Sincerely,

Brenda Schimenti

Brenda K. Schimenti
Executive Director