September 8, 2023

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 2024 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Advantage; Medicare and Medicaid Provider and Supplier Enrollment Policies; and Basic Health Program

Dear Administrator Brooks-LaSure:

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) 2024 Physician Fee Schedule Proposed Rule. We applaud CMS for seeking to remove barriers and increase access to mental health and substance use services in keeping with CMS' behavioral health strategy.

About AAPP

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 (SUDs), receive safe, appropriate, and effective treatment. Pharmacist members specialize in psychiatry, substance use disorders (SUD), and psychopharmacology and most are residency trained and Board certified in psychiatric pharmacy holding the BCPP credential (Board Certified Psychiatric Pharmacist). With a significant shortage of mental health care professionals, psychiatric pharmacists offer another resource to improve outcomes for patients with psychiatric and SUDs.

Role of Psychiatric Pharmacists

Pharmacists graduate with a Doctor of Pharmacy degree, requiring six to eight years of higher education to complete, and have more training specific to medication use than any other health care professional. Psychiatric pharmacists, a specialty within clinical pharmacy have specialized training in providing direct patient care and medication management for the complete range of psychiatric disorders and SUDs. Psychiatric pharmacists work as important members of interprofessional treatment teams but also in decision-making and leadership roles in health care organizations, state and federal organizations, academia, and industry.

Psychiatric pharmacists are important members of the health care team working in collaboration with the patient and other health care providers including, but not limited to, psychiatrists, other physicians, therapists, social workers, and nurses (including advanced practice nurses). Psychiatric pharmacists provide expert, evidence-based Comprehensive Medication Management (CMM) services for the most complex patients with mental health disorders and SUDs. Psychiatric pharmacists increase capacity of

the health care team to provide care and psychopharmacology expertise, as well as improve patient outcomes and reduce overall health care costs. As medication experts, psychiatric pharmacists are uniquely positioned to facilitate medication access and adherence by identifying and helping to address potential treatment barriers, including prior authorizations and high out-of-pocket patient costs.

Psychiatric pharmacists have a deep understanding of Medications for Opioid Use Disorder (MOUD) that extends beyond that of most other health care providers. When included in the provision of MOUD services through a collaborative practice arrangement, psychiatric pharmacists' involvement has been demonstrated to improve patient adherence and success with buprenorphine treatment for opioid use disorders; reduce per patient dosage of buprenorphine through improved medication management, monitoring and titration; and reduce overall costs. Furthermore, given the insufficient number of providers in addiction medicine, psychiatric pharmacists increase access to SUD treatment by providing medication management, education, monitoring, and follow-up care.

AAPP respectfully provides the following comments on the proposed rule:

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

The COVID-19 public health emergency (PHE) prompted a transformation in the delivery of mental and behavioral health services. Without Medicare telehealth coverage flexibilities, many beneficiaries would have lost access to mental and behavioral health services at time of extreme stress and vulnerability. AAPP is pleased that CMS will continue to provide these flexibilities until the end of CY 2024 under the terms of the Consolidated Appropriations Act, 2023 (CAA 2023), including allowing individuals to receive services from their own homes, allowing more services overall to be furnished via telehealth, delaying the requirement for an in-person visit within 6 months prior to an initial telemental health visit, and allowing patients to use audio-only devices. Given the long-term mental health impact of the COVID-19 pandemic, AAPP believes CMS should work to ensure that the remaining temporary flexibilities be made permanent.

Virtual Direct Supervision

CMS proposes to allow PHE flexibilities for direct supervision to continue through the end of CY 2024 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 that do not otherwise exist for in-person services. Making virtual direct supervision permanent will also assist with the ongoing physician shortage crisis.

Evaluation and Management (E/M) Visits

E/M services are a vital component of the Medicare program, comprising 40 percent of all PFS allowed charges; additionally, office or outpatient E/M visits comprise approximately 20 percent of all PFS fee for service allowed charges. In the CY 2020 PFS Final Rule, CMS finalized its proposal to increase payments starting in CY 2021 for E/M services, per recommendations from the American Medical Association Relative Value Scale Update Committee.

Now, for CY 2024, the proposed conversion factor is $32.75, a significant drop from the CY 2020 conversion factor of $36.09 and below the CY 2023 factor of $33.89 despite a 1.25 percent increase

provided by the CAA 2023. The conversion factor update is still a cut because of the budget neutrality adjustment for reductions in relative values for individual services.

While we understand the legal requirement of budget neutrality of changes in payment under the PFS, cuts will have a significant impact on practitioners in rural and underserved areas and most importantly patient's access to care. The COVID-19 pandemic demonstrated the need for increased mental health services and now is not the time to cut payments that will only exacerbate the challenge of getting access to these critical services, particularly in rural areas. As such, we urge CMS to explore avenues to curb such cuts to reimbursement, including engaging Congress on the issue.

Advancing Access to Behavioral Health Services

Implementation of Section 4121(a) of the Consolidated Appropriations Act, 2023
The CAA 2023 added marriage and family therapists (MFTs) and mental health counselor services (MHCs) as qualified health providers (QHPs) under Medicare. The proposed rule implements these changes by proposing definitions for MFTS and MHCs and denotes that the services they provide must be of a type that would be covered if furnished by a physician or incident to. The proposed rule adds them to the list of individuals and entities to whom payment is made, proposes payment amounts, and proposed they be added to the list of clinicians that can provide telehealth. Further, Addiction Counselors would be considered Mental Health Counselors and would be eligible to enroll and bill Medicare for MHC services if they meet the necessary requirements. Expanding Medicare coverage to services provided by these professionals is a positive step that better recognizes the spectrum of providers of behavioral health care services.

Updates to the Payment Rate for the PFS Substance Use Disorder Bundle
AAPP supports CMS' proposal to revise the payment rate for the SUD Bundle to increase access to office-based SUD treatment outside of an OTP. The increase in payment rate appropriately reflects the complexity of treating patients with SUDs and creates consistency in reimbursement across treatment settings.

Comment Solicitation on Expanding Access to Behavioral Health Services
AAPP calls on CMS to work with Congress on recognizing clinical pharmacists as QHPs in the same way as MFTs and MHCs, given the role they play on health care teams to provide mental health substance use comprehensive medication management. We believe this is consistent with the CMS Behavioral Health Strategy that aims "to strengthen quality and equity in behavioral health care; improve access to substance use disorders prevention, treatment, and recovery services; ensure effective pain treatment and management; improve mental health care and services; and utilize data for effective actions and impact." The Veterans Administration, the Bureau of Prisons, the Indian Health Service and tribal health authorities utilize and pay for psychiatric pharmacists as part of the care team to treat patients with mental health and substance use disorders. Medicare is long overdue in expanding the list of mental health and SUD providers to expand access to behavioral health services. Therefore, we strongly encourage CMS to include an authorizing language request to this effect in its FY2025 presidential budget submission absent other legislation from Congress, like Sen. Grassley's proposed "Pharmacy and Medically Underserved Areas Enhancement Act," which would allow any licensed pharmacist to provide Part B services as authorized by State law to address the needs of the underserved. Further under current policy, clinical pharmacists and the health settings in which they practice are not reimbursed sufficiently for the mental health and substance use services they provide. This severely limits the ability of a practice to include psychiatric pharmacists on health care teams to provide medication expertise

and deliver comprehensive medication management. Adding psychiatric pharmacists to the team increases the capacity to care for more patients and add psychiatric expertise in a primary care setting. This is an oversight that CMS must correct to increase the availability of behavioral health services under Medicare. We urge CMS to add CMM services provided by psychiatric pharmacists as part of the solution to the behavioral health workforce shortage.

Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs)

AAPP supports the changes made by the CAA 2023 regarding RHCs and FQHCs and calls on CMS to implement these policies quickly. While we are glad that many RHC and FQHC telehealth flexibilities are now permanent, we ask that CMS make permanent any remaining temporary flexibilities, including those related to: continuing payment for telehealth services using the methodology established for telehealth services during the PHE; removing 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.

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. AAPP also supports the current proposal to extend the audio-only flexibilities for periodic assessments furnished by OTPs through the end of 2024 when video is not available. We urge CMS to work with the Drug Enforcement Administration (DEA) and Substance Abuse and Mental Health Services Administration (SAMHSA) to keep these policies in place, as they expand access to treatment for OUDs to rural populations. AAPP also supports ensuring access to intensive outpatient program services in the OTP setting and will be reviewing the Outpatient Prospective Payment System proposed rule.

Requirement for Electronic Prescribing for Controlled Substances for a Covered Part D Drug under a Prescription Drug Plan or an MA-PD Plan (section 2003 of the SUPPORT Act)

The SUPPORT Act mandated that controlled substance prescribing under Part D be done electronically in accordance with an electronic prescription drug program effective January 1, 2021. To allow time for implementation, CMS originally established a compliance date of January 1, 2022 but then, due to the strains of the COVID-19 pandemic, pushed the compliance date to January 1, 2023. AAPP supported these delays in order to allow prescribing clinicians additional time to come into compliance.

In the CY 2023 PFS final rule, CMS similarly extended existing non-compliance actions sending notices to non-compliant prescribers to the CY 2024 program implementation year. AAPP also supports this decision and encourages CMS to continue listening to prescriber viewpoints during this phase-in period.

Thank you again for the opportunity to comment on the 2024 PFS Proposed Rule. If you have any questions, please do not hesitate to contact me or our Health Policy Consultant, Laura Hanen at lahanen@venable.com. We look forward to working with you.

Sincerely,

Brenda K. Schimenti
Executive Director