July 7, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-5531-IFC
P.O. Box 8016
Baltimore, MD 21244-8016

Submitted Electronically at www.regulations.gov

Re: Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program

Dear Administrator Verma,

I am pleased to submit these comments on behalf of the Association for Clinical Oncology (ASCO) in response to the Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program (CMS-5531-IFC) interim final rule with comment period published in the Federal Register on May 8, 2020.

ASCO is a national organization representing nearly 45,000 physicians and other health care professionals specializing in cancer treatment, diagnosis, and prevention. We are also dedicated to conducting research that leads to improved patient outcomes, and we are committed to ensuring that evidence-based practices for the prevention, diagnosis, and treatment of cancer are available to all Americans.

ASCO recognizes the Centers for Medicare and Medicaid Services (CMS) for the regulatory flexibilities CMS has implemented during the public health emergency (PHE). The first interim final rule with comment (IFC) made sweeping changes to promote physician and patient utilization of telehealth services during the PHE and addressed additional regulatory changes to maximize efficiency and streamline processes for healthcare providers. This second IFC builds upon and clarifies many of these initial changes and continues to help practitioners serve as many patients as possible when leaving home is not always an option.

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ASCO thanks CMS for covering and reimbursing audio-only evaluation and management services at the same rate as telehealth and in-person evaluation and management services during the PHE. ASCO recommends that these services remain covered at this increased rate on a permanent basis beyond the expiration of the PHE.

Typically, Medicare does not cover audio-only evaluation and management (E&M) services; however, CMS acknowledges that the two-way, audio/video technology required to furnish a Medicare telehealth service might not always be available to Medicare beneficiaries and that circumstances exist where prolonged, audio-only communication between the practitioner and the patient are clinically appropriate. With the goal of reducing exposure risks during the COVID-19 pandemic, CMS will cover audio-only E&M services throughout the PHE for both new and established patients.

ASCO applauds CMS for recognizing the importance of covering audio-only E&M services, especially for beneficiaries with chronic conditions like cancer. During this pandemic we continually hear concerns from physicians who need to have lengthy and complicated conversations with their patients who do not have access to two-way, audio/visual communications. By covering these services, the Agency is ensuring some of the most vulnerable patients receive adequate and quality care in the safety of their own homes.

ASCO thanks CMS for seriously considering stakeholder input and subsequently reimbursing audio-only E&M services at the same rate as an established patient telehealth or in-person E&M visit. CMS has acknowledged that audio-only services are more prevalent than originally anticipated, and Medicare beneficiaries are not utilizing audio/visual communication technology as originally expected. Physicians are instead using audio-only patient interactions to manage more complex care. ASCO thanks CMS for recognizing that the intensity of furnishing an audio-only visit is not accurately captured by the initial valuation stated in the first IFC and that audio-only services are frequently a substitute for office/outpatient Medicare telehealth visits or in-person E&M visits.

ASCO is committed to working to ensure oncologists have the resources they need to provide high-quality cancer care no matter where that care is delivered. We recommend that the Agency permanently cover and reimburse audio-only E&M services at the same rate as a telehealth or in-person visit, especially considering CMS’ acknowledgement that many Medicare patients lack access to audio/visual communications and the recognized intensity of these visits. Cancer patients, because they are often immuno-compromised, are an especially vulnerable subset of the Medicare population. Granting physicians the flexibility to provide clinically appropriate and high-quality care to these beneficiaries through audio-only means can help keep these vulnerable patients in their homes, reducing unnecessary exposure to all illnesses, not just COVID-19. This in turn can help keep patients healthier, ultimately reducing unnecessary financial burden on the healthcare system. While we agree with the Agency that telehealth platforms incorporating both audio/visual two-way communication—when available—is preferred, there are instances when this is not possible. This lack of access to technology for both patients and physicians will not be limited to the time during the PHE; therefore, we urge the Agency to extend the coverage and reimbursement regulatory changes beyond the PHE.

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We appreciate the opportunity to comment on the Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency interim final rule. Please contact Gina Baxter
(gina.baxter@asco.org) or Karen Hagerty (karen.hagerty@asco.org) with any questions or for further information.

Sincerely,

Monica Bertagnolli, MD, FACS, FASCO
Chair of the Board
Association for Clinical Oncology