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Chief Executive Officer

December 8, 2014

Ms. Marilyn Tavenner  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
P.O. Box 8016  
Baltimore, MD 21244-8016

Transmitted via electronic submission

RE: CMS–3819–P

Dear Ms. Tavenner:

The National Association of Social Workers (NASW) appreciates this opportunity to comment on the proposed rule, “Medicare and Medicaid Program: Conditions of Participation for Home Health Agencies,” 74 Fed. Reg. 61163 (proposed Oct. 9, 2014). With 132,000 members, NASW is the largest membership organization of professional social workers in the world. The association works to enhance the professional growth and development of its members, to create and maintain professional standards, and to advance sound social policies.

NASW supports the following proposed changes to the home health agency (HHA) conditions of participation:

- addition of a patient-centered definition of “representative” and the role of that representative in HHA care [proposed §§ 484.2, 484.50(a)(1), 484.50(d), and 484.60]
- expanded information on patient rights [proposed § 484.50](d)]
- addition of psychosocial and cognitive status as part of a comprehensive assessment process [proposed § 484.55(c)(1)] that includes the patient’s strengths, goals, and care preferences [proposed § 484.55(c)(2)] and primary caregiver(s), patient representative, and other available supports [proposed §§ 484.55(c)(6) and 484.55(c)(7)]
- requirement that each patient receive an individualized written plan of care [proposed § 484.60(a)]
- expanded personnel requirement for “social worker” to include people with a doctoral degree in social work [proposed § 484.115(l)]
- retention of the requirement that “social work assistants” be supervised by qualified social workers [proposed §§ 484.75(c)(3) and 484.115(k)], as defined in current §484.4 and proposed § 484.115(l)

We believe these proposed changes would help to realize CMS’s goals of increasing patient centeredness and improving outcomes.

At the same time, we are concerned that other aspects of the proposed rule do not promote high-quality patient care.

**Professional interpretation services.** Proposed §§ 484.50(c)(12) and 484.50(f) stipulate that patients with disabilities or limited English proficiency have the right to be informed about, and to access at no charge, auxiliary aids and language services. Yet, the background text on page 61168 of the proposed rule indicates that an HHA may communicate patient rights information to the patient’s representative “if a patient is unable to effectively communicate directly with HHA staff.” NASW encourages CMS to clarify this statement. We recognize that representatives can play an integral role in helping patients to understand and communicate health care information. If a patient is unable to participate, to any degree, in decision making regarding her or his health care, then communication of patient rights information to the patient’s representative is appropriate. If a patient can participate in health care decision making, however, it is essential that HHAs offer auxiliary aids, professional interpretation services, and translated materials directly to the patient, rather than relying on the representative to serve as an interpreter. A representative may have a close personal relationship with the patient and may not be able to provide information to either the patient or the HHA in an objective manner. Thus, to ensure effective communication, avoid placing representatives in dual roles, and reduce health disparities, the HHA should offer language assistance services or auxiliary aids and services to *all* patients who need such services to communicate directly with HHA personnel (and who can participate in health care decision making).

Moreover, NASW concurs with CMS that each patient should have the option to provide her or his own interpreter and that the HHA “must ensure that the communication via the interpreter of choice is effective” (74 Fed. Reg. 61164, p. 61169). Even if a patient or representative does offer to provide an interpreter, however, she or he should still be informed of the availability of professional interpretation services.

**Consolidation of provisions addressing skilled professional services.** NASW strongly supports CMS’s goal of supporting interdisciplinary team care. We are extremely concerned, however, that proposed § 484.75 would impede interdisciplinary care by diluting the roles of professionals within the team. Patients’ and families’ access to HHA social work services is already limited for several reasons:

- Home health agencies aren’t required to offer medical social services. The current conditions of participation (§ 484.14) specify only that “part-time or intermittent skilled nursing services and *at least one other therapeutic service (physical, speech, or occupational therapy; medical social services; or home health aide services)* [emphasis added] are made available on a visiting basis, in a place of residence used as a patient's home.” Similarly, § 484.34 delineates personnel requirements for social workers and social services assistants, but only “*if the agency furnishes medical social services*”—thereby reinforcing that medical social services are optional in home health care.
- Even within HHAs that do provide medical social services, access to a social worker or social work assistant is limited because such services must be ordered by a physician based on an initial assessment by a registered nurse (RN). RNs do not have the in-depth training in psychosocial assessment that social workers do. Thus, they may not detect significant psychosocial concerns related to the home health diagnosis, just as a social worker attempting to do a nursing assessment may not detect certain physiological or medical issues. This home health practice contrasts sharply with hospice, where social work is a core service and social workers complete the psychosocial assessment.
- As sequestration and other federal cost-containment measures constrict HHA budgets, NASW members have reported that an increasing number of HHAs are replacing social workers with nurses.

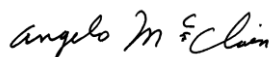
In light of these factors, NASW is concerned that eliminating the provisions governing medical social work and social services could limit, to an even greater extent, HHAs' ability to provide high-quality psychosocial care. We believe that proposed § 484.75 is not an adequate replacement for current provisions governing skilled nursing services (§ 484.30), therapy (occupational, physical, or speech–language pathology) services (§ 484.32), and medical social services (§ 484.34). Interdisciplinary team care is not strengthened by blending or eliminating discipline-specific roles but, rather, by each discipline fulfilling its specific role, understanding and supporting the role of other disciplines, and collaborating to ensure coordination of care.

Thus, we recommend that CMS retain the aforementioned current provisions while adding new language supporting interdisciplinary participation in the areas noted in proposed § 484.75: ongoing patient assessment process; care planning, monitoring, and revision; counseling and education for patients and families; communication with other health care providers; and participation in HHA in-service trainings and the HHA's quality assessment and performance improvement program. This action would signify the uniqueness of each discipline's expertise and promote integrative care within HHAs.

**Continued deprofessionalization of the social work role.** NASW remains concerned that the personnel requirements for HHA “social work assistants” do not support high-quality care. NASW maintains that a baccalaureate (BSW), master's (MSW), or doctoral degree in social work is the only sufficient preparation for social work. Although we support the MSW supervision requirement for social work assistants, we remain concerned that a baccalaureate degree in a “field related to social work” [§ 484.115(k)(1)] or, alternately, two years of “appropriate experience” and a satisfactory grade on a U.S. Public Health Service–conducted, approved, or sponsored proficiency examination [§ 484.115(k)(2)] do not adequately prepare non-BSW social work assistants to address the complex health-related circumstances experienced by many HHA patients and families. This lack of social work education and training may compromise the quality of services provided to HHA patients and families.

Again, we appreciate the opportunity to provide comments on the proposed rule. If you have questions about NASW's comments, please contact my office at [naswceo@naswdc.org](mailto:naswceo@naswdc.org) or (202) 336-8200.

Sincerely,



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