



December 31, 2019

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue SW
Washington, DC 20201

RE: Modernizing and Clarifying the Physician Self-Referral Regulations, CMS-1720-P

Submitted electronically via www.regulations.gov

Dear Ms. Verma,

I am writing on behalf of the National Association of Health Underwriters (NAHU), a professional association representing more than 100,000 licensed health insurance agents, brokers, general agents, consultants and employee benefits specialists. We are pleased to have the opportunity to provide comments in response to the proposed rule published in the *Federal Register* on October 17, 2019, titled "Modernizing and Clarifying the Physician Self-Referral Regulations."

The members of NAHU work on a daily basis to help individuals and employers of all sizes purchase, administer and utilize health insurance coverage. The clients our members serve include individual Medicare beneficiaries, other Americans seeking individual health insurance coverage, and employers and employees covered under group health benefit arrangements of all kinds. As such, ensuring that high-quality and affordable private health insurance options are available to all Americans is one of our association's highest priorities.

NAHU members appreciate the intent of the proposed rule, which is to help ensure that Medicare and the private market can move away from the traditional fee-for-service healthcare delivery and payment systems and toward more value-based based systems of care and provider payment. We believe that moving Medicare and the private market in this direction is a way to curb unsustainable healthcare cost growth and it will provide consumers with more meaningful care options. We also approve of the concept of providing patients with meaningful protection against overutilization and other harms while giving physicians and other healthcare providers added flexibility to improve the quality of care for their patients.



As CMS moves forward with the development of a final rule, however, NAHU asks that you remain cognizant that the longstanding protections in the Stark Act exist for a reason. We would like you to ensure that any final rule effectively prevents physician steering with regard to certain healthcare services that are largely unaffected by the quality of the provider, such as laboratory tests or treatments like kidney dialysis. We would also like to see assurances that the new safe harbors do not allow for patient steering toward one health plan option over another. Finally, while we fully support a more value-based payment model for services that lead to better patient care, we feel that it is essential to include long-term assessments as part of a final rule. That way, CMS can ensure that its changes lead patients toward true quality outcomes over time. Perhaps any final rule could stipulate that CMS will conduct follow-up implementation evaluations over the next few years with the goal of identifying any potential obstacles or problems with the systems so that they can be addressed in subsequent rulemaking and guidance.

In the proposed rule, CMS also solicited comments about the role of price transparency in the context of the Stark Act and whether to require cost-of-care information at the point of a referral for an item or service. NAHU members believe it would be truly transformative if patients and providers had the ability to transparently discuss in real time accurate and patient-specific prices for various care options while examining each option's efficacy. Providing actual cost-of-care information at the point of a referral for an item or service would enable fully informed treatment decisions. However, to effectively and accurately provide such data, it would take the active participation of not only affected patients and providers, but also the health plans. Significant technology would also be required, and there would need to be means to address the resulting cost and ramp-up time that would be required. Further, it remains to be seen if any implementation issues would arise that might impede patients and providers from accessing the full benefits of the concept. As such, NAHU recommends a phased rollout of any new requirements, coupled with an evaluative system to assess the efficacy of any new requirements over time.

NAHU sincerely appreciates the opportunity to provide comments on the proposed rule. If you have any questions or need additional information about our thoughts on this critical matter, please do not hesitate to contact me at either (202) 595-0787 or jtrautwein@nahu.org.

Sincerely,

A handwritten signature in black ink, which appears to read "Janet Trautwein". The signature is written in a cursive style with a large, looping initial "J".

Janet Stokes Trautwein
Executive Vice President and CEO
National Association of Health Underwriters