Trinity Health

July 15, 2024

Chiquita Brooks-LaSure, Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: CMS-1799-P; Medicare Program: Mitigating the Impact of Significant, Anomalous, and Highly Suspect Billing Activity on Medicare Shared Savings Program Financial Calculations in Calendar Year 2023

Submitted electronically via http://www.regulations.gov

Dear Administrator Brooks-LaSure,

Trinity Health appreciates the opportunity to comment on policies set forth in CMS-1799-P. Our comments and recommendations reflect a strong interest in public policies that support better health, better care and lower costs to ensure affordable, high quality, and people-centered care for all.

Trinity Health is one of the largest not-for-profit, Catholic health care systems in the nation. It is a family of 121,000 colleagues and more than 26,000 physicians and clinicians caring for diverse communities across 27 states. Nationally recognized for care and experience, the Trinity Health system includes 101 hospitals, 126 continuing care locations, the second largest PACE program in the country, 136 urgent care locations and many other health and well-being services. Trinity Health has 15 medical groups with 8,200 medical group physicians and providers. Based in Livonia, Michigan, its annual operating revenue is $21.6 billion with $1.5 billion returned to its communities in the form of charity care and other community benefit programs.

Trinity Health has 17 Clinically Integrated Networks (CINs) that are accountable for 2 million lives across the country through alternative payment models. Our health care system participates in 14 markets with Medicare Shared Savings Program (MSSP) Accountable Care Organizations (ACOs), which includes eleven markets partnering in one national MSSP Enhanced Track ACO, Trinity Health Integrated Care. All of these markets participated in the “enhanced track”, which qualifies as an advanced alternative payment model (AAPM). Two of the 14 markets also participate in CPC+. In addition, we participated for many years in the Bundled Payments for Care Improvement Advanced (BPCIA) initiative and the Comprehensive Care for Joint Replacement (CJR) program across 37 hospitals. Our work—and experience in value-based contracting—also extends beyond Medicare as illustrated by our participation in 123 non-CMS APM contracts.

Our experience with significant, anomalous and highly suspect (SAHS) billing related to codes A4352 and A4353 was submitted to the CMS Center for Program Integrity (CPI), Fraud Investigations Group (FIG), Division of Provider Investigations (DPI). In 2022, our ACO had approximately $1.5M in payments for these two codes, in 2022, this amount increased to over $14M in 2023 resulting in a 913% increase. Most of this increase is coming from a handful of DME organizations with very little to no claims payment experience with our ACO in 2022, but

high amounts of payment in 2023 which is what caused our investigation. As an ACO, it is our responsibility to report suspect fraud to authorities and applaud CMS for taking action with this proposed rule to hold ACOs harmless in the event of SAHS billing.

While this is a significant step to mitigate the impact of anomalous spending for CY 2023, the 2023 catheter spending is not the only instance of ACOs reporting suspected fraudulent billing. We ask that CMS address the other areas of SAHS billing and provide additional details to support longer term strategies to address anomalous spending. According to a recent press release, the Justice Department announced the 2024 National Heath Care Fraud Enforcement Action, which resulted in criminal charges in connection with amniotic wound grafts, laboratory fraud, telemedicine as well as other areas. We ask CMS to take a similar approach as in this proposed rule for other codes and categories deemed SAHS.

Trinity Health believes these changes will promote accuracy and validness of the data used in benchmarking, trending and reflection of actual performance. Removing these costs will lead us to a more accurate and true evaluation of our performance. This does, however, limit our ability to use the data we have to predict final reconciliation. As was done in the removal of COVID-19 episodes, we ask that CMS provide us reports that show the catheter codes included and excluded at the ACO, national and regional levels. This will help us model trend and give us more insight into our performance.

We acknowledge that these proposed changes will impact timing on final reconciliation of 2023. We support the exception to the 60-day comment period and waiver of the 30-day delay in effective date of final rule to speed up the reconciliation process as much as possible.

CONCLUSION

We appreciate CMS' efforts to improve payment systems across the delivery system. We welcome the opportunity to inform any future policy and are happy to partner with CMS. If you have any questions on our comments, please feel free to contact me at jennifer.nading@trinity-health.org.

Sincerely,

/s/

Jennifer Nading
Director, Medicare and Medicaid Policy and Regulatory Affairs
Trinity Health