FAMILIESUSA
THE VOICE FOR HEALTH CARE CONSUMERS

September 11, 2023

Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1770-P
P.O. Box 8016
Baltimore, MD 21244-8016

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

Re: CMS-1784-P (Section II.K.)

Administrator Brooks-LaSure:

Families USA and 30 of our partners are pleased to provide the Centers for Medicare & Medicaid Services (CMS) with comments on the proposals and request for information on Medicare Parts A and B Payment for Dental (Section II.K.) in the proposed rule on *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* (CMS 1784-P).

Introduction

The undersigned organizations represent a broad cross section of stakeholders, including national and state level advocates for families, patients, older adults, and people with disabilities. As advocates for health equity and improving our nation's overall health, we have long recognized the need for improved dental coverage in Medicare. Without this coverage, millions of older adults and people with disabilities in our nation cannot afford the care they need to get and stay healthy. The Biden Administration now has an opportunity to improve a narrow, albeit critical piece of this popular, much needed benefit for our nation's older adults and people with disabilities, often referred to as "medically necessary" dental coverage.

We applaud CMS for continuing to recognize the need to maximize its authority to cover medically necessary dental care in Medicare. Medicare's lack of dental coverage not only leaves oral health care unaffordable for millions of Americans, it also exacerbates underlying and related racial, geographic and disability-related health and wealth disparities.[i] Improved Medicare coverage for medically necessary dental care will help millions of people get healthy without having to make impossible financial tradeoffs, and would mitigate some inequities. The proposal to include additional clinical scenarios under "medically necessary" dental coverage would help to improve equitable access to dental services and lead to better health outcomes, in line with the Administration's goals of increasing equitable access to high quality and affordable health care.[ii] Continuing to identify additional services that fall under this coverage standard is also an important step toward comprehensive Medicare dental coverage, as it will

help build the infrastructure and provider participation that would support a full dental benefit when it is eventually enacted by Congress.

Overall, we strongly support the proposal to clarify and codify CMS's authority to cover "medically necessary" dental care related to cancer treatment in Medicare, encourage CMS to continue to identify additional clinical scenarios that fall under this standard, and urge CMS to ensure this coverage is implemented as effectively as possible. We will address several of the specific issues and questions for which CMS has solicited input in the comments that follow.

Comments on proposal to permit payment for dental services inextricably linked to covered cancer services

CMS proposes to amend the regulation at § 411.15(i)(3)(i)(A) and permit Medicare Parts A and B payment for dental or oral examinations, medically necessary diagnostic and treatment services, and services ancillary to the above, such as x-rays and anesthesia, in the treatment of cancer with chemotherapy, CAR T-cell therapy, and high-dose bone-modifying agents (antiresorptive therapy). This proposal is in addition to CMS' policy in the CY 2023 PFS final rule (87 FR 69681) and reiterated in section II.K.2 of this proposed rule (CMS-1784-P) that Medicare Parts A and B payment may be made for dental and oral examinations and medically necessary diagnostic and treatment services to eliminate dental and oral infections prior to Medicare-covered treatments for head and neck cancer.

This proposal for CY 2024 is a needed clarification of CMS' existing authority, which will improve health outcomes and affordability for older adults and people with disabilities undergoing treatment for various types of cancer. It is also an important component to addressing persistent inequities in cancer outcomes. The undersigned organizations agree with the stakeholder comments CMS cites in section II.K.2.a of the proposed rule detailing how dental and oral health services are inextricably linked with the success of cancer treatments.

We applaud CMS for recognizing that dental services prior to chemotherapy, CAR T-cell therapy and/or high-dose bone-modifying agents (antiresorptive therapy) are inextricably linked to the therapy's clinical success. We also agree with the proposed rule that these dental and oral health services should be covered regardless of whether they are offered in inpatient or outpatient settings.

We are additionally pleased that CMS is clarifying that these proposals will cover dental and oral health treatments and ancillary services prior to or during cancer treatment as well as regardless of primary or metastatic status, site of origin, or initial treatment modality.

We also appreciate the clarification that this coverage applies to dental services related to chemotherapy regardless of whether or not chemotherapy is being used in combination with other cancer therapies. If this were to only apply in cases where chemotherapy is the only treatment, we fear it would increase health disparities between cancer treatments. For example, patients have different survival rates undergoing chemotherapy plus radiotherapy treatment for early-stage Hodgkin Lymphoma compared to those only receiving chemotherapy treatments.[1] These patients should all benefit from covered dental and oral health services.

[1] Blank O, von Tresckow B, Monsef I, Specht L, Engert A, Skoetz N. Chemotherapy alone versus chemotherapy plus radiotherapy for adults with early stage Hodgkin lymphoma. Cochrane Database Syst Rev. 2017 Apr 27;4(4):CD007110. doi: 10.1002/14651858.CD007110.pub3. PMID: 28447341; PMCID: PMC6478261.

We also appreciate that CMS is seeking input and evidence regarding other immunotherapies, and we urge CMS to use its authority to consider and include these as there is clear evidence that immunosuppression can cause infections and other poor oral health outcomes, which in turn worsen overall health and reduce the effectiveness of many medical treatments. Given that radiation treatment can result in similar levels of immunosuppression to chemotherapy and other treatments when used on certain areas of the body, such as in bone radiation (in addition to the head and neck), we strongly encourage CMS to include dental services related to radiation treatment in the final ruling.[2]

We strongly support the proposals to permit Medicare Parts A and B payment for dental services prior to chemotherapy, CAR T-cell therapy, anti-resorptive therapy, and other immunotherapies used in the treatment of all cancer types, in addition to head and neck cancers.

Comments on covering additional clinical scenarios under "medically necessary" authority

In sections II.K.3-5, CMS requests comments on additional Medicare-covered services used in the treatments of cardiac interventions, sickle cell disease, hemophilia, and autoimmune or other chronic conditions whose health outcomes are inextricably linked to the provision of dental and oral health services.

We are pleased to see CMS' willingness to consider covering additional dental services prior to or during treatment for Medicare-covered services for these diseases and conditions if commenters provide sufficient clinical evidence. Millions of older adults and people with disabilities in this country suffer from the consequences of cardiovascular disease, sickle cell disease, hemophilia, and autoimmune or other chronic conditions such as diabetes. As noted in comments for the CY 2023 PFS (CMS-1770-P Section II.L.), there is clinical consensus from many leading medical experts and professional associations about the importance of dental care in these and other medical treatments.[3] For all of these health conditions, considerable racial inequities persist in both incidence and severity. Increasing access to and affordability of dental and oral health services that improve the outcomes of Medicare-covered services related to each of these conditions is an important health equity issue. People who rely on Medicare to treat these conditions should not be unable to afford dental and oral health care that might lead to better disease management and health outcomes.

Finally, we also encourage CMS to consider including dental services related to specific medical treatments under this coverage standard that may apply regardless of the associated diagnosis. For example, chemotherapy is used to treat blood disorders and autoimmune diseases in addition to cancers, and thus dental services related to chemotherapy may make sense to cover in instances beyond treating cancer.

We strongly urge CMS to use evidence submitted for this and future proposed rules to permit Medicare Parts A and B payment for dental and oral health treatments and ancillary services that

---

[2] How radiation therapy affects the immune system, BreastCancer.org, June 29, 2022, Accessed August 11, 2023, https://www.breastcancer.org/managing-life/immune-system/cancer-treatments/radiation-therapy.

[3] Clinical Consensus on Medically Necessary Dental Care. Santa Fe Group. Accessed June 30, 2022. https://santafegroup. org/wp-content/uploads/2020/08/clinical-consensus-on-medically-necessary-dental-care.pdf.

improve the affordability, access, and outcomes of Medicare-covered services for additional conditions and diseases such as those CMS discusses in sections II.K.3-5.

Comments on request for information related to the implementation of payment for dental services inextricably linked to other specific covered services

In Section II.K.6, CMS seeks information, best practices, and comments on the implementation of these medically necessary policies, coordination between providers, and further guidance CMS should provide to additional dental benefit payers.

We are pleased to see CMS' understanding that seamless care coordination—between providers as well as between sources of insurance when Medicare beneficiaries have multiple — is necessary for beneficiaries to access and afford dental and oral health care that improves the clinical outcomes of Medicare-covered services.

In particular, we appreciate CMS seeking comment on the coordination of multiple dental benefits that Medicare beneficiaries may have and what type of guidance CMS should provide to additional payers about these dental payment policies. Given the variation of how much dental coverage is offered across state Medicaid programs, it is particularly important to ensure coordination with state Medicaid programs.

It is also important that CMS intends to issue educational and outreach materials about billing and payment for any policies finalized in the final rule. We encourage CMS to make a particular effort to ensure that the relevant medical and dental providers understand that this coverage exists, particularly given that we have heard from providers such as organ transplant specialists and hospital-based dentists that they are unaware of the policy that was finalized in last year's rule making.

Finally, CMS has requested information on whether these services should be offered in federally qualified health centers (FQHCs) in addition to inpatient and outpatient settings, and we believe that they should be. This is important because from 2001 to 2011, FQHCs doubled the number of Medicare beneficiaries they served. While Medicare beneficiaries make up a smaller percentage of the people served by FQHCs, they often have higher levels of illness burden and medical need.[4]

We strongly encourage CMS to further educate providers about these clarifications to Medicare payment policy for dental and oral health services, ensure this benefit is well coordinated across payers, and ensure that people can access this coverage regardless of where they get their care, including through FQHCs.

Conclusion

Families USA and the undersigned organizations greatly appreciate the opportunity to provide comments on this proposed rule. If finalized, the changes CMS proposes in this rule will make a

[4] Lavelle, T.A., Rose, A.J., Timbie, J.W. et al. Utilization of health care services among Medicare beneficiaries who visit federally qualified health centers. BMC Health Serv Res 18, 41 (2018). https://doi.org/10.1186/s12913-018-2847-x.

considerable difference for our nation's older adults and people with disabilities who are struggling to afford and access the oral health care they need to stay healthy. We are grateful to the Administrative officials and other stakeholders committed to building upon the CY 2023 PFS final rule and improving oral health through the Medicare program. We look forward to continuing to work with you to build upon this critical progress. For additional information, please contact Melissa Burroughs at mburroughs@familiesusa.org

Sincerely,

National Organizations

Families USA

ACA Consumer Advocacy

American Diabetes Association

Autistic People of Color Fund

Autistic Women & Nonbinary Network

Center for Elder Law & Justice

Centers for Popular Democracy

Community Access National Network

Community Catalyst

Lakeshore Foundation

Maternal and Child Health Access

Medicare Rights Center

National Disability Rights Network (NDRN)

National Down Syndrome Congress

The Gerontological Society of America

Triage Cancer

State Organizations

Colorado

Colorado Consumer Health Initiative

Kansas

Oral Health Kansas, Inc.

Kentucky

Kentucky Voices for Health

Illinois

Mano a Mano Family Resource Center

Maryland

Maryland Dental Action Coalition

Michigan

Marcy Borofsky Family Foundation

Minnesota

Apple Tree Dental

Montana

Montana Primary Care Association

New Jersey

New Jersey Citizen Action

Ohio

Oral Health Ohio

Pennsylvania

PA Coalition for Oral Health

Tennessee

Tennessee Justice Center

Virginia

Virginia Coalition of Latino Organizations

[i] Christ, A., G. Burke and J. Goldberg. Adding a Dental Benefit to Medicare: Addressing Racial Disparities. Justice in Aging. October 2019. https://www.justiceinaging.org/wp-content/uploads/2019/10/Addressing-Oral-Health-Equity-by-Addinga-Dental-Benefit-to-Medicare.pdf.

[ii] U.S. Dept. of Health and Human Services, "Strategic Plan FY 2022-2026," available at https://www.hhs.gov/about/strategic-plan/2022-2026/index.html; Centers for Medicare & Medicaid Services, "CMS Framework for Health Equity 2022-2032,", available at https://www.cms.gov/files/document/cms-framework-health-equity.pdf.