Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. 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-1807-P: CY 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies

Dear Administrator Brooks-LaSure:

Families USA and 39 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.J.) in the proposed rule on Medicare CY 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies.

Introduction

The undersigned organizations represent a broad cross section of stakeholders, including national and state level advocates for patients, families, 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-Harris Administration now has an opportunity to improve a narrow, albeit critical piece of this popular, much needed benefit 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, but it also exacerbates underlying and related racial, geographic and disability-related health and wealth disparities.[1] 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 – as recently presented in their oral health cross cutting initiatives.[2][3] 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 oral health provider participation necessary to support a full dental benefit.

Overall, we strongly support the proposal to clarify and codify CMS' authority to cover "medically necessary" dental care related to dialysis for Medicare beneficiaries being treated for End-Stage Renal Disease (ESRD), urge CMS to clarify new language related to coverage standards, and encourage CMS to continue to identify additional clinical scenarios that fall under the "medically necessary" standard.

Our comments below focus on the following sections of the proposed rule

- II.J. Proposal on Medicare Parts A and B Payment for Dental Services Inextricably Linked to Specific Covered Services 2. Proposed Additions to Current Policies Permitting Payment for Dental Services Inextricably Linked to Other Covered Services.
- II.J. Proposal on Medicare Parts A and B Payment for Dental Services Inextricably Linked to Specific Covered Services 1. Medicare Payment for Dental Services C. Submissions Received through Public Submission
- II.J. Proposal on Medicare Parts A and B Payment for Dental Services Inextricably Linked to Specific Covered Services 3. Request for Comment on Dental Services Integral to Specific Covered Services to Treat Diabetes

Comments on proposal to permit payment for dental services inextricably linked to covered End-Stage Renal Disease 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 for patients receiving dialysis services to treat ESRD.

This proposal for CY 2025 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 ESRD. It is also an important component to addressing persistent inequities in kidney treatment and dialysis outcomes.

We applaud CMS for recognizing that treatment of oral infection, for which individuals with chronic immune suppression due to dialysis treatments are at higher risk, improves the success of medical treatment for those with ESRD. We also agree with the proposal that these dental and oral health services be covered regardless of whether they are offered in inpatient or outpatient settings.

We strongly support the proposals to permit Medicare Parts A and B payment for dental services in both the inpatient and outpatient setting to identify and address oral infections for those actively undergoing dialysis and treatment for ESRD.

Comments on new language related to the coverage standard for "medically necessary" Medicare dental coverage

In addition, we want to raise potential concerns about new language related to the coverage standard for "medically necessary" Medicare dental coverage. As stated in this year's proposed rule, the CY 2023 PFS final rule (87 FR 69663 through 69688), clarified and codified at § 411.15(i)(3) that "*Medicare payment under Parts A and B could be made when dental services are furnished in either the inpatient or outpatient setting when the dental services are inextricably linked to, and substantially related and integral to the clinical success of, other covered services*."

This year's proposed rule includes additional clarifying language that specifies criteria for submissions of clinical scenarios that could be considered to meet this previously codified criteria. In that section, CMS states *"Submissions should focus on the inextricably linked relationship between dental services and other services necessary to diagnose and treat the individual's underlying medical condition and clinical status, and whether it would not be clinically advisable to move forward with the other covered services without performing certain dental services"*.

We want to ensure that the criteria that it "would not be clinically advisable to move forward with other covered services" is not applied as a more restrictive definition of the coverage standard than what has already been codified. While this criterion would provide a different type of evidence that dental services are "inextricably linked" to a medical service, deeming something "clinically advisable" could be subjective and limiting beyond the original intent of the standard. It is possible that there are cases in which dental services are inextricably linked and substantially related to the clinical success of a medical treatment in which the medical provider may still move forward with the treatment without dental services being completed, particularly if they are not covered.

Due to our concerns that as written, it could make it more difficult to prove an inextricable link between medical conditions and dental services, we urge CMS to consider clinical advisability of other covered services as one of the many criteria in assessing medical necessity, but not the only one.

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

CMS requests information on treatments and other clinical information related to diabetes and autoimmune disorders in order to determine if health outcomes are inextricably linked to the provision of dental and oral health services.

We are pleased by 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 additional clinical evidence. Millions of older adults and people with disabilities in this country suffer from the effects of autoimmune or other chronic conditions such as diabetes. As noted in previous comments and submissions, there is clinical consensus from many leading medical experts and professional associations about the importance of dental care in advancing these and other medical treatments.[4] 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 medical services related to each of these conditions is an important step toward health equity. 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.

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 improve the affordability, access, and outcomes of Medicare-covered services for additional conditions and diseases such as those CMS discusses in this proposal.

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 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.

As CMS continues to determine additional conditions that warrant oral health coverage, we appreciate the work being done for existing coverage finalized in previous Medicare Physician Fee Schedule Final Rules. We hope that you will continue to ensure those that rely on Medicare for their health coverage are informed of their options and able to access the dental care they need to improve their health.

We are grateful to the administration officials and other stakeholders committed to improving oral health through the Medicare program. We look forward to continuing to work with you to build upon this critical progress.

Sincerely,

Families USA

Access Ready, Inc

American Dental Hygienists' Association

American Institute of Dental Public Health

American Muslim Health Professionals

American Network of Oral Health Coalitions

Asian Resources, Inc. (ARI)

Association of State and Territorial Dental Direct

CareQuest Institute for Oral Health

Center for Elder Law & Justice

Center for Medicare Advocacy

Colorado Consumer Health Initiative

Community Catalyst

Connecticut Oral Health Initiative

Democratic Disability Caucus of Florida

Dialysis Patient Citizens

Finally Quiet, Inc.

Florida Voices for Health

Floridians for Dental Access

Idaho Oral Health Alliance

IDD United

Justice in Aging

KinderSmile Foundation

Maryland Dental Action Coalition

Maternal and Child Health Access

Michigan Elder Justice Initiative

Missouri Coalition for Oral Health

Missouri Kidney Program

National Association of Social Workers (NASW)

National Disability Rights Network (NDRN)

National Rural Health Association

New York Center for Dental Oncology

Ohio Federation for Health Equity and Social Justi

Oral Health Ohio

PA Coalition for Oral Health

SC Appleseed

Southern Vermont Area Health Education Center

The Arc of the United States

Utah Health Policy Project

Virginia Coalition of Latino Organizations

[1] 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.

[2] 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.

[3] Center for Medicare and Medicaid Services Cross Cutting Initiative, "Oral Health" https://www.cms.gov/files/document/oral-health-cci-fact-sheet.pdf

[4] 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.