

June 13, 2022

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services,  
P.O. Box 8013  
Baltimore, MD 21244-1850

Submitted electronically at: <https://www.regulations.gov>

Attention: CMS-1771-P

Dear Administrator Brooks-LaSure:

On behalf of the National Alliance for Nursing Education (NANE), a nationwide coalition of hospital-affiliated nursing and allied health programs, we respectfully offer our comments on the FY 2023 Medicare hospital inpatient prospective payment systems (IPPS) proposed rule. impact regarding the severe financial impact CMS's implementation of the Reasonable Cost Payment for Nursing and Allied Health Programs on provider sponsored nursing and allied health programs.

NANE members thank you for the opportunity to provide comment and look forward to working with CMS to address our concerns, that if not resolved, will challenge the ability of more than 100 hospital-affiliated nursing and allied health programs that are vital to their sponsor hospitals' and health systems' missions of improving the health of the communities they serve.

In the proposed rule CMS describes the process used to implement laws enacted in 1999 and 2000 to include Medicare Advantage (MA) utilization in determining Medicare share of reasonable costs for provider-sponsored nursing and allied health payments, limited to \$60 million annually and funded by a reduction to Direct Graduate Medical Education (DGME) payments to teaching hospitals. CMS in the initial rulemaking indicated it would utilize IPPS rulemaking to advise the public annually of the information included in calculating the MA nursing and allied health payments and the required reductions to MA DGME to fund the nursing and allied health payments. CMS subsequently acknowledged it used a sub-regulatory process (change requests) for subsequent years.

CMS issued transmittal 11642 outlining the process the Medicare Administrative Contractors (MACs) were to use to recoup funds previously provided to the nursing and allied health programs from sponsoring hospitals with open cost reports. Many of the sponsoring hospitals had multiple open cost reports in the late fall of 2020 and in 2021.

NANE representatives worked diligently with CMS in the fall of 2020 to secure a reasonable solution to CMS' error. Although CMS delayed recoupment through the fall of 2020, subsequently the MACs began recouping more than \$100 million in Medicare pass-through payments CMS deemed as overpayments. CMS determined teaching hospitals had MA DGME

payments reduced by a higher percentage than necessary and that the statute required recoupment of prior year pass-through funds, and as indicated in the 2023 IPPS Proposed Rule, for FY 2020 and 2021. We respectfully ask CMS to explore options as Congressional champions continue to work with leadership to find a legislative fix to avert any new challenges, in addition to the problems we currently face with nursing workforce shortages.

When the Medicare Advantage (previously Medicare Plus Choice) was established and the \$60 million in nursing and allied health payments was created to assure that the switch to MA was not going to harm these hospital-based schools, no consideration was given to the potential growth of Medicare Advantage. Medicare Advantage growth over the past 20-plus years has been substantial and is now about 42 percent of Medicare. Unfortunately, there was no corresponding increase in the \$60 million nursing and allied health fund cap, severely limiting the growth of hospital-based schools of nursing and allied health at a time when these providers are most needed.

Hospital-affiliated nursing and allied health programs are making significant contributions to improve workforce developments in their communities and states. As the pandemic continues to place financial challenges on the programs and their sponsoring hospitals and health systems, the future of nursing education is at great risk. We hope CMS will be willing to work with NANE to find a solution that will ensure the continued success of hospital-based nursing and allied health programs.

Thank you again for considering our comments.

Sincerely,