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January 30, 2020

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

Re: Proposed Rule: Medicaid Program; Medicaid Fiscal Accountability Regulation (CMS-2393-P)

Dear Administrator Verma:

On behalf of the physician and medical student members of the American Medical Association (AMA), I appreciate the opportunity to provide comments on the proposed Medicaid Fiscal Accountability Regulation (MFAR) published in the *Federal Register* on November 18, 2019. This proposal would broadly affect how states finance their share of the cost of Medicaid programs and how states provide supplemental payments to physicians, hospitals, nursing homes, and other providers.

While the AMA supports the Centers for Medicare & Medicaid Services' (CMS) goal of improving fiscal accountability and transparency in the Medicaid program, the AMA is concerned that the proposed rule would result in significant funding cuts to state Medicaid programs, thereby causing serious harm to Medicaid beneficiaries' access to care, physicians and hospitals participating in Medicaid, and state budgets. The MFAR proposed rule also fails to provide virtually any regulatory impact analysis, as required under federal law, of the almost certain negative impact on beneficiaries, physicians and hospitals, and states. **Accordingly, the AMA urges CMS to withdraw this rule and engage in a thorough analysis of the impact of changes to the structure of Medicaid financing before it moves forward with such a broad proposal.**

The proposed rule would make major changes to existing requirements for state financing and supplemental payments, reversing nearly 20 years of policy that has allowed states flexibility in how they fund their share of the cost of their Medicaid programs. Under current law, states can use revenues generated from taxes on health care providers, intergovernmental transfers from public providers and local governments and certified public expenditures, Medicaid managed care plan taxes, state special funds or other local sources of funding to receive a federal match. In addition, states can provide supplemental fee-for-service payments, outside of the Disproportionate Share Program, in addition to the base payment rates to physicians, hospitals, nursing homes, and other providers. All 50 states have used some of these financing mechanisms as allowed by law. The proposed rule would make several highly technical changes that could prohibit or restrict states' ability to use existing financing and supplemental payment measures to draw down federal matching funds but does not provide a way for states to offset the loss of funding from those arrangements. This could result in states cutting their Medicaid programs if they are unable to replace that funding with other sources.

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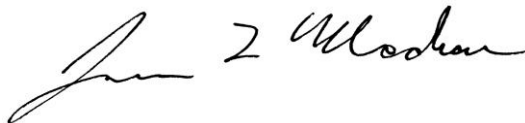
Moreover, the proposed rule would change existing requirements by creating vague discretionary review criteria for state financing and supplemental payments. These standards would apply to new arrangements as well as to existing ones that have already been approved by CMS. However, CMS does not delineate specific criteria for how states are to meet the new requirements, which would result in uncertainty and confusion for state Medicaid programs.

As mentioned above, CMS has failed to provide sufficient analysis of the proposed rule's likely negative impact on the Medicaid program in states. The AMA is concerned that the proposal will likely result in significant funding cuts to state Medicaid programs, which in some states could be up to half of their Medicaid budgets. This in turn could result in the loss of funding for our nation's most vulnerable patients, especially pregnant women, children, the disabled, and the elderly. Unless states can fill the budget gaps that such cuts could create, they might be forced to reduce medical services and provider payments. This could result in physicians no longer being able to continue to participate in the program, which could exacerbate current Medicaid physician shortages. Access to care for Medicaid beneficiaries would be at risk and health outcomes for such patients could worsen.

For the reasons noted above, the AMA urges you to withdraw this proposal, conduct the due diligence Regulatory Impact Analysis that the law requires, and develop a new evidence-based proposal that truly improves fiscal accountability and transparency in the Medicaid program without harming patients, physicians, hospitals, and states.

Thank you for considering our comments. If you have any questions regarding this letter, please feel free to contact Margaret Garikes, Vice President, Federal Affairs, at margaret.garikes@ama-assn.org or (202) 789-7409.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Madara". The signature is fluid and cursive, with a large initial "J" and "M".

James L. Madara, MD