

December 15, 2017

TO: **Demetrios Kouzoukas**, Principle Deputy Administrator of CMS and Director of the Center for Medicare (CMS)

FROM: **Twila Brase, RN, PHN**, President and Co-founder, CCHF (651-646-8935, twila@cchfreedom.org)

RE: Comments on the Medicare Participation Announcement for CY 2018.

We would like to share our appreciation and some specific thoughts about the new language pertaining to the option for physicians to opt-out of Medicare.

We have compared the 2018 Participation Announcement to the 2017 Announcement. The changes are significant and show a clear change in direction and policy under the new Administration. Thank you.

Comparing the first paragraphs alone makes it evident that the new Trump administration has a different focus than the previous administration. The new administration clearly desires to transition health care back to patients and physicians instead of increasing bureaucratic micromanagement and intrusive government intervention in medical decision-making.

For example, the Medicare Participation Announcement for CY 2017 begins by emphasizing: “the importance and advantages of being a Medicare participating (PAR) provider.” Compare this to the 2018 announcement, which begins with a primary goal of: “empowering patients and doctors to make decisions about their healthcare.”

We appreciate that the new Administration is placing the empowerment of patients and doctors as the highest priority because health care is ALL about the patient and the all-important patient-doctor relationship that leads to correct and timely treatment of patients in need of care and cure.

Perhaps the best part of the 2018 Announcement is the Medicare Opt-Out language on the second page. First, the opt-out option is both bolded and underlined, drawing the reader’s attention to this option. Second, the language

highlights the serious problems and costs physicians and others practitioners face due to the ongoing interference and bureaucratic hassles imposed by Medicare:

“However, enrollment in the program does carry a number of requirements. For example, providers must comply with numerous reporting requirements that consume time that they would rather spend with patients. We seek to reform the Medicare program to allow providers more flexibility to meet the needs of patients.” [Emphasis added.]

This aptly-described reporting burden is contributing to the ever-growing list of reasons why half of 600 nurses surveyed are considering leaving the profession (February 2017 RNnetwork survey) and 48% of more than 17,000 physicians plan to retire, limit their practices to a few patients or leave clinical practice behind (2016 Physicians Foundation Survey). Burnout from the imposed EHR and “clerical demands” are increasing. Fully 54% of physicians are affected by burnout, which is bad for doctors and for patients. Already 400 physicians a year are committing suicide.¹

Government and managed care controls over medical decisions and time-consuming regulatory burdens that focus practitioners on paperwork instead of patient care have endangered helping professionals and the future of medical and nursing practice—at a time when even more doctors and nurses will be needed. About 10,000 individuals are reaching Medicare age each day!

The subsequent paragraph in the 2018 announcement describes **advantages** gained by physicians who opt-out of Medicare, including direct contracting between the physician and patient, which is prohibited for Medicare PAR physicians.

The document then affirms,

“Opted out physicians also need not follow certain Medicare requirements such as deciding on a case by case basis whether, in compliance with Medicare’s rules and guidance, to provide an advanced beneficiary notice of non-coverage.” [Emphasis added.]

¹ Julie Steenhuisen, “Counting the costs: U.S. hospitals feeling the pain of physician burnout,” Reuters, November 21, 2017: <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/Virtual-Groups-Public-Webinar-slides.pdf>

Pointing out the value and advantages of opting out of Medicare is very important. These statements also give physicians and other practitioners a **sense of freedom**. It assures them that the administration fully supports opting-out as an option.

In addition, the 2018 announcement explains to physicians that even if they opt-out, they may still be reimbursed for services provided to Medicare patients as a result of a medical emergency. CCHF also appreciates that a link to more information on how to Opt-Out of Medicare is included in the announcement.

In short, the 2018 Medicare Participation Announcement is a breath of fresh air. It focuses on promoting the patient-doctor relationship and greater flexibility for physicians, rather than self-praise for the Medicare program and its new data reporting requirements, new payment and care delivery models, and continuing penalties for lacking robust and meaningful EHR systems.

That said, CMS must continue to find more ways to reduce the burdens of physicians and other practitioners or patients may find it difficult to find a doctor in their future—or to receive the timely medical care that's critical for saving life and limb.

Thus, CMS should also consider protective options for MEDICARE PATIENTS, such as the right to opt-out of Medicare without losing Social Security benefits, the right to obtain care through direct payment models and receive Medicare reimbursement, the option to keep private insurance as primary coverage, and the right to pay Medicare-participating physicians cash for the treatment that Medicare denies. After all, it's not always possible for a patient to find an opted-out specialist that meets their needs.

Citizens' Council for Health Freedom sees the 2018 Medicare Participation Announcement as a positive indication of the future plans of CMS. We fully support returning flexibility, control, and participation options to patients and physicians instead of overburdening them with costly regulations and bureaucratic red-tape.

A FINAL NOTE: We believe that your information on MIPS regarding \$30,000 per year or 100 patients needs to be updated. The recently revised Medicare payment regulation changed the parameters, which are now \$90,000 and 200 patients.

Feel free to contact me if you have any questions or would like more information:
651-646-8935, twila@cchfreedom.org