

June 7, 2024

The Honorable Xavier Becerra  
Secretary  
Department of Health and Human Services  
Hubert H. Humphrey Building, Room 509F  
200 Independence Avenue SW  
Washington, DC 20201

Submitted electronically to [www.regulations.gov](http://www.regulations.gov)

**RE: Medicare and Medicaid Programs and the Children’s Health Insurance Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2025 Rates; Quality Programs Requirements; and Other Policy Changes [CMS-1808-P]**

Dear Secretary Becerra:

The American Nurses Association (ANA) is pleased to submit the following comments in response to the above-captioned rule. ANA supports the agency’s goals for advancing health equity, and we further urge the agency to improve access to care provided by advanced practice registered nurses (APRNs). ANA’s comments below focus on:

- 1. CMS Must Explore Methods to Rebalance IPPS Payment Incentives**
- 2. CMS Must Continue Acute Respiratory Illness Reporting**
- 3. Reasonable Cost Payment for Nursing and Allied Health Education Programs**
- 4. Proposal to Move Up the Start Date for Public Display of the Hospital Commitment to Health Equity Measure**
- 5. CMS Must Ensure Access and Payment Parity for APRNs to Address Persistent Maternal Health Challenges**
- 6. CMS Must Recognize and Support Nurses Through any Obstetric-Specific Conditions of Participation (CoP) Requirements.**
- 7. CMS Must Encourage Hospitals to Work with Nurses to Achieve Climate Resilience Goals**
- 8. CMS Proposal to Create Payments for Essential Medicines**

**1. CMS Must Explore Methods to Rebalance IPPS Payment Incentives**

First and foremost, Medicare policymakers must begin to consider alternative payment approaches for inpatient care, and ANA urges CMS to use its authority to engage nurses in developing new hospital payment models. Currently, IPPS payments are based on various factors and cost-related formulae and these factors generally overlook negative impacts on nurses and nursing roles in patient care. ANA is increasingly concerned that the overall impact of the structure of Medicare hospital financing is to drive institutions to minimize costs, often at the expense of quality and workforce. Given current Medicare payment policies, hospitals are incentivized to minimize costs and maximize revenue primarily by reducing labor costs, especially nursing staff. Specifically, hospitals are paid based on standardized diagnostic related groups, which are set amounts created by formula. As nurses make up close to one-

third of all hospital expenditures,<sup>1</sup> hospitals all too often look to lowering the cost of nursing care to maximize revenue.

Frequent reductions of nursing staff have led to burnout in hospital-based nurses and created additional burdens on nurses such as the risk of workplace violence and forced overtime. While these issues are not shown on the revenue side, they have significant effects on patient care and clinical staff retention. Cutting nursing staff may create short term savings, but has long term effects on a facility's capacity to provide quality care. Nurses are in the primary role of meeting inpatient needs and stand ready to provide quality clinical care that leads to desired outcomes. Yet hospital systems cut this care as a way to save money and earn incentives in the Medicare system.

Further, the outmoded view that nursing capacity represents only provider costs to the bottom line leads to insufficient investment in that capacity. In addition, well-being and professional development of nurses are not adequately considered in budget decisions. These factors have resulted in symptoms among healthcare personnel commonly referred to as burnout. Sadly, the nursing community is at the forefront of the burnout phenomenon, which has led to turnover and attrition. Survey data from the National Council of State Boards of Nursing's (NCSBN) 2022 National Nursing Workforce Survey indicates that 28 percent of all nurse respondents plan to retire in the next 5 years, an increase from the 21 percent who responded positively in 2020.<sup>2</sup> A 2023 survey by the American Nurses Foundation (ANF) found that 56 percent of nurses report feeling symptoms of burnout, with 64% of nurses indicating that they feel a great deal of stress because of their jobs.<sup>3</sup> Despite high levels of burnout, about two-thirds of nurses surveyed were not receiving any type of mental health support.

Currently, Medicare conditions of participation (CoPs) lack the strength and specificity needed for CMS to provide effective oversight. For instance, these provisions do not spell out expectations for quantifiable staffing levels, and they are silent on key work environment issues such as risks of violence and excessive work hours. Unless policymakers incentivize improvements in nurse working environments through restructured payments, patient access to high-quality and equitable services will be increasingly undermined at the point of care, in communities, and across patient populations. We urge CMS to begin meaningful discussions internally, and externally with federal policymakers and key stakeholders such as ANA and industry leaders, to identify and test hospital payment models that reward hospital investments in high-quality nursing care and work environments that sustain hospitals' nursing workforce.<sup>4</sup> CMS must use its payment authority to incentivize the nursing care that delivers quality care and ensures nurses have a positive work environment.

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<sup>1</sup> Welton, John. Hospital Nursing Workforce costs, wages, occupational mix, and resource administration. *J. Nurs. Adm.* 2011 Jul-Aug. <https://pubmed.ncbi.nlm.nih.gov/21799362/>

<sup>2</sup> Richard A. Smiley, MS, MA, et al., *The 2022 National Nursing Workforce Survey*, Journal of Nursing Regulation, April 2023, available at: [https://www.journalofnursingregulation.com/article/S2155-8256\(23\)00047-9/fulltext](https://www.journalofnursingregulation.com/article/S2155-8256(23)00047-9/fulltext).

<sup>3</sup> American Nurses Foundation, *Understanding and Prioritizing Nurses' Mental Health and Well-Being*, November 2023, available at: <https://www.nursingworld.org/~4aaf68/contentassets/ce8e88bd395b4aa38a3ccb583733d6a3/understanding-and-prioritizing-nurses-mental-health-and-well-being.pdf>.

<sup>4</sup> For an example of an innovative approach, see Yakusheva, Olga and Robert Longyear. *Center For Medicare and Medicaid Innovation Should Test An Alternative Payment Model For Hospital Nursing*. Health Affairs. May 20, 2024,

## **2. CMS Must Continue Acute Respiratory Illness Reporting**

Medicare CoPs require hospitals to have facility-wide programs for surveillance, prevention, and control of infectious diseases.<sup>5</sup> This data reporting must continue and is imperative to ensure the collective public health of all residents. This data is also used to prepare for surge conditions, and it can help prepare nurses for when the hospitals where they are employed will have extra patients and extra staffing might be required.

CMS proposes to update the reporting requirements to include confirmed infections, hospital bed census and capacity, and some demographic information. ANA supports these changes as they can be used to improve public health outcomes and increase awareness. Collecting this data can also help prevent future outbreaks as patterns may emerge which can help public health professionals.

CMS solicits comments on whether race or ethnicity should be included in data collection. There are some diseases which affect some populations more than others, and collecting some of this information can improve public health, and support improvements in health equity. CMS must be careful in how this data is used and must ensure that privacy is maintained, but the data should be collected. As CMS points out, the COVID-19 pandemic affected some communities more severely than others. Information about this impact should be studied to inform preparedness for future infectious disease pandemics and support equitable responses.

## **3. Reasonable Cost Payment for Nursing and Allied Health Education Programs**

CMS proposes to base the FY 2025 payments on data from FY 2023, which is the most recent data available. ANA thanks CMS for continuing these payments and believes that using the most recent data available results in the most accurate payments.

## **4. Proposal to Move Up the Start Date for Public Display of the Hospital Commitment to Health Equity Measure**

The Commitment to Health Equity Measure was finalized in the final calendar year 2023 IPPS rule and it was created in response to the Administration making health equity a strategic priority. The measure tracks demographic information for patients as well as staff training on culturally sensitive issues. CMS proposes to move up the effective date of the measure to January 2026 if feasible. ANA strongly supports this measure and encourages CMS to have it take effect as soon as possible.

ANA applauds the Administration's continued focus on health equity and looks forward to ongoing collaboration to close the health equity gap and ensure that all Americans receive high-quality care. ANA remains focused on the prominent issue of advancing health equity in our nation's health care delivery system. Providing equitable care to patients has long been an ethical imperative for the nursing profession. Nurses embrace diversity and engage in equity focused care, while working to remove unconscious biases to effectively promote meaningful patient outcomes. Ultimately, nurses are key in designing and directing care that appropriately meets the needs of patients, improves access to needed care, promotes positive outcomes, and reduces disparities.

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available at: <https://www.healthaffairs.org/content/forefront/center-medicare-and-medicaid-innovation-should-test-alternative-payment-model-hospital>

<sup>5</sup> The CoPs also require other types of disease control.

Nurses, in addition to providing quality care to patients, often serve as advocates for their patients and are best positioned to identify factors that could result in inequitable health outcomes. Nurses also typically reflect the people and communities they serve—allowing them to recognize the challenges faced by their patients and ensure that their patients receive equitable health care services. ANA encourages CMS to work closely with nurses to identify and address barriers to access and other health inequities within the qualified health plans (QHPs) offered on the federal and state-based marketplaces.

#### **5. CMS Must Ensure Access and Payment Parity for APRNs to Address Persistent Maternal Health Challenges**

ANA applauds CMS for continued focus on addressing the maternal health challenges facing the nation. Registered nurses (RNs), certified nurse midwives (CNMs), and nurse practitioners (NPs) all play a key role in maternity care, and we urge CMS to keep them central in approaches to addressing these challenges. Patients must have access to these trusted providers through inclusion in public and private payer provider networks and receive equitable payment for the services they provide.

The practice of CNMs and NPs continues to be unnecessarily restricted in many states due to outdated state licensing rules. These rules present a barrier to patients and their choice of provider. Medicare coverage can only be meaningful if beneficiaries have true access to care. ANA believes that federal action is warranted to encourage states to adopt nurse licensing approaches that would expand scope of practice for APRNs, such as CNMs and NPs. As CMS determines new policy to address maternal health, it is critical to create incentives for states to remove practice barriers that result in reduced access to high value maternal health care providers and services including NP and CNMs. CMS should use its waiver authorities to leverage opportunities for CNM and NP practice, and to incentive practice expansion in states with restrictions. CMS must measure and account for nurses in the development of payment models that address women’s and maternal health. Similarly, ANA urges CMS to develop payment models that account for and reward RNs, NPs, and CNMs for their high-value care and resulting high-quality birth outcomes.

Such care includes primary care throughout the reproductive life span, as well as preconception, pregnancy, postpartum, and inter-conception care. While there are examples of nurse-led programs that represent promising cost-effective maternal care models, they are not sustainable or scalable unless federally-funded insurance programs ensure adequate payment for services provided by nurses.<sup>6</sup> ANA encourages CMS to examine and develop payment models that target women’s and maternal health and ensure nursing services are measured and accounted for. These models should be scalable and integrate the critical role of nurses in addressing access to women’s and maternal health care services.

Moreover, CMS must ensure reimbursement for telehealth services in maternal and childcare. Telehealth is a tool for providers and beneficiaries to ensure early and timely access to prenatal and postnatal care, eliminating barriers that can be created by provider shortages, transportation issues, and employment schedules. This is especially important for patients needing critical maternal health services in rural and underserved geographic regions. Currently, only a handful of states specifically reimburse obstetric care provided through telehealth. CMS should research and evaluate which services provide

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<sup>6</sup> American Academy of Nursing. Edge Runners Application. <https://aannet.org/page/EdgeRunnersApplicationSubmission>. Accessed June 2024

the greatest value to beneficiaries, such as tobacco cessation, remote monitoring of high-risk comorbidities, postpartum care, and lactation support.

As CMS continues to solicit information about addressing maternal health challenges, ANA urges the agency to ensure access to APRNs and payment parity are central to those approaches. Our nurses are too critical to the health care delivery system, especially providing maternal health services, to be overlooked.

#### **6. CMS Must Recognize and Support the Nurse Through any Obstetric-Specific Conditions of Participation (CoP) Requirements.**

ANA appreciates CMS for weighing whether to establish a targeted obstetrical services CoP for participating facilities. It is appropriate for CMS to exercise its oversight authority in this way to ensure that patients needing obstetric services have access to high quality care. Medicare or Medicaid coverage can only be meaningful if beneficiaries have true access to care.

As CMS considers how to structure the obstetric CoP, ANA urges the agency to recognize and support the nurse. First, the requirements must ensure access to all maternal health providers, including APRNs. As we detail in the section above, states that have not allowed CNMs and NPs full practice authority are only exacerbating existing access issues and shortages in maternal health care providers. At the same time, federal action is needed to also ensure these essential providers are reimbursed equitably for their services, whether provided individually or as part of a care team.

However, a resilient workforce is achieved not only by adequate pay, as the working environment must also allow nurses to flourish in their profession. CMS must also ensure that facilities subject to the obstetric CoP staff adequately and appropriately to allow their nurses to provide high quality, patient-centered care. CMS must structure the obstetric CoP requirements related to staffing in a way that guarantees appropriate staffing levels. Appropriate staffing is a dynamic process that aligns the number of nurses, their workload, expertise, and resources with patient needs in order to achieve quality patient outcomes within a healthy work environment. ANA supports many approaches to achieving appropriate staffing, including the use of enforceable minimum nurse staffing ratios as an approach to reduce patient harm and improve quality outcomes and to ensure the creation of an optimal work environment that supports the recruitment and retention of nurses.

Insufficient nurse staffing jeopardizes patient safety and quality outcomes and negatively affects nurse retention and the overall work environment. Nurses are professionals providing critical health care services to patients—they should not have to fight for allotted breaks and other challenges created by antiquated views of the profession and payment policies that disincentivize adequate nurse staffing. All too often, we hear of staffing plans not being enforced, resulting in long shifts and strains on bedside nurses providing care. Nurses know best the provisions that they and their team need. Moreover, we also know nurses understand and value appropriate, evidence-based nurse staffing approaches driven by patient complexity, layout of the nursing unit, patient census, and other key factors. For example, the Association of Women’s Health, Obstetric and Neonatal Nurses (AWHONN) issued several reports detailing research findings that support recommended, evidence-based nurse-to-patient ratios for perinatal units that aim to support high quality nursing care.<sup>7</sup> Recommendations such as those

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<sup>7</sup> Association of Women’s Health, Obstetric and Neonatal Nurses. Standards for Professional Registered Nurse Staffing for Perinatal Units. 2022. <https://www.awhonn.org/education/staffing-standards/>. Accessed May 2024.



suggested by AWHONN strive to ensure the nurse has the resources and support they need and demonstrate that nurses have solutions to staffing challenges. This only underscores the need for nurses to be involved in staffing determinations and the importance to fully consider their needs in any staffing standards.

As CMS structures an obstetric CoP, ANA urges the agency to recognize and support the nurse in all requirements. This is just another instance where health care delivery and outcomes would be improved by greater nurse involvement. It is crucial for nurses to take on leadership roles, in all settings, to meet the demands of our ever-changing health care system, including being permitted to practice to the full extent of their education, training and licensure. The agency must ensure patient access to APRNs and payment parity for nurses. CMS also must use its oversight authority to ensure adequate and appropriate staffing levels in all facilities that allow for work environments that support the nurse in the provision of high-quality care. ANA and its members stand ready to work with federal policymakers on continued approaches to ensuring patient access to obstetric care.

#### **7. CMS Must Encourage Hospitals to Work with Nurses to Achieve Climate Resilience Goals**

CMS proposes several provisions for hospitals to voluntarily participate in initiatives aimed at addressing the effects of hospital carbon emissions on health outcomes, health care costs, and quality of care. ANA applauds CMS for focusing on this important work, as ANA continues to focus on this key health issue, releasing an updated position statement around the nurses' role in addressing this global health issue. Recognizing that climate change is a critical public health issue, the position statement calls for nurses to take action while providing additional guidance for nurses in all specialties and settings.<sup>8</sup>

ANA knows nurses can affect change in professional settings and encourages CMS and hospitals to work closely with nurses to achieve real results through these initiatives. CMS notes that technical assistance would be available to help hospitals identify approaches and transition to care delivery models that support a lower climate impact. We know our nurses are best positioned in hospitals to educate patients, model and promote strategies responding to the impacts of climate change, and prioritize nursing workforce capacity for disaster/climate change preparedness. Our nurses also advocate for underserved patients, calling for just and equitable climate responses in public health, and promoting coalitions and other partnerships. Federal agencies, policymakers, and hospitals must take advantage of this resource. The threat of climate change will not be addressed in a silo—an all-hands approach is called for to make real and lasting progress on this issue.

#### **8. CMS Proposal to Create Payments for Essential Medicines**

CMS proposes creating a payment for hospitals to establish and maintain access to essential medicines. Nurses were recently represented on a stakeholder group with the Food and Drug Administration (FDA) to finalize a list of essential medical devices. The need for this resource was demonstrated during the COVID-19 public health emergency (PHE) and also the Administration's health equity priorities. When there are shortages, the wealthier hospital systems are the ones that can still purchase medications, but lower income systems frequently do not have that ability. ANA agrees that an essential medicines list is

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<sup>8</sup> American Nurses Association. Nurses' Role in Addressing Global Climate Change, Climate Justice, and Health. Position Statement. September 2023. [https://www.nursingworld.org/~4a64ad/globalassets/practiceandpolicy/nursing-excellence/ana-position-statements/social-causes-and-health-care/nursesroleinaddressingglobalclimatechangeclimatejusticeandhealth\\_bod-approved.pdf](https://www.nursingworld.org/~4a64ad/globalassets/practiceandpolicy/nursing-excellence/ana-position-statements/social-causes-and-health-care/nursesroleinaddressingglobalclimatechangeclimatejusticeandhealth_bod-approved.pdf). Accessed May 2024.

the next logical step in ensuring that hospitals and health systems will not be overwhelmed in the event of a public health emergency or other emergency that could tax hospitals.

We note that in the CY2024 outpatient services rule, CMS requested comment on a new payment to encourage hospitals to create and maintain a three- month supply of 86 essential medicines. The payment would cover storage and other reasonable costs to establish and maintain the supply of medicines, but not the medicines themselves. This proposal was not finalized for outpatient facilities last year.

HHS, through the Office of the Assistant Secretary for Preparedness and Response (ASPR), created the list of 86 essential medications that are “either critical for minimum patient care in acute settings or important for acute care with no comparable alternatives available.” This seems reasonable and ANA agrees with the criteria used to create this list.

ANA supports the underlying concept of requiring hospitals to maintain a supply of essential medicines. However, data is necessary to determine how much of a supply of the medicines would be sufficient to avoid shortages. CMS should also work with manufacturers to ensure that adequate supplies of medications are available for overall access, to avoid the unintended consequence of creating a shortage.

ANA does not take a position at this time on whether Medicare should pay hospitals to meet required thresholds. In any case, CMS efforts to ensure improved stocking of essential medicines should be implemented on a level playing field, and not penalize hospitals that are maintaining adequate stocks.

## **Conclusion**

ANA is the premier organization representing the interests of the nation’s over 5 million registered nurses (RNs), through its state and constituent member associations, organizational affiliates, and individual members. ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. ANA members also include the four advanced practice registered nurse roles (APRNs): nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives (CNMs), and certified registered nurse anesthetists (CRNAs). RNs serve in multiple direct care, care coordination, and administration leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care, and provide advice and emotional support to patients and their family members.

Nurses are critical to a robust health care system. Nurses meet the needs of patients and provide quality care that leads to better health outcomes for all patients. Moreover, nurses are critical to coordinated care approaches for Medicare beneficiaries in all settings, including hospital outpatient settings. Patient-centered care coordination is a core professional standard for all RNs and is central to nurses’ longtime practice of providing holistic care to patients.

ANA appreciates the opportunity to submit these comments and looks forward to continued engagement with CMS. Please contact me at (301) 628-5166 or [tim.nanof@ana.org](mailto:tim.nanof@ana.org), with any questions.

Sincerely,



Debbie Hatmaker, PhD, RN, FAAN  
Chief Nursing Officer / EVP

cc: Jennifer Mensik Kennedy PhD, MBA, RN, NEA-BC, FAAN, ANA President  
Angela Beddoe, ANA Interim Chief Executive Officer