



September 13, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Comments on CMS-1772-P— CY 2023 Medicare Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule (“HOPPS Proposed Rule” or “Proposed Rule”)

Dear Administrator Brooks-LaSure:

On behalf of the undersigned members of the Consortium for Constituents with Disabilities (CCD) Health Task Force, we write to provide comments on the Hospital Outpatient Prospective Payment System (OPPS) proposed rule for calendar year (CY) 2023, specifically to comment on the Centers for Medicare and Medicaid Services’ (CMS’) proposal to address dental surgical services provided in hospital settings. CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance.

Children and adults with disabilities face significant health disparities with respect to oral health care. Medicare beneficiaries with disabilities and frail seniors who face health care challenges like diabetes, cardiovascular disease, stroke, and respiratory infections can suffer oral health side effects from the use of multiple medications and treatments, particularly immunosuppressant and radiation treatments. For adults and those with disabilities facing complex health conditions, dental disease can be life-threatening if left untreated.

The optimal care setting to address the oral health care needs for certain children and adults with disabilities is often in a hospital or another surgical setting, such as an ambulatory surgical center (ASC). This is due to the time involved for extensive restorative dental surgical procedures, the often-complex equipment and general anesthesia required, and the challenge of the services that need to be provided. Despite this need, there has been an alarming decrease in operating room access for dental procedures over the last decade. In a majority of states, particularly in rural areas, operating room access for beneficiaries in need of dental surgery has been a persistent problem, and children and adults with disabilities are disproportionately affected.

In the rule, CMS proposes to make adjustments to the classification of the code used by hospitals to report outpatient dental procedures. We appreciate CMS' effort to ensure that the dental surgical services provided in hospitals are aligned with the most clinically appropriate code classification. **We urge CMS to finalize this proposal.** It is our hope that the adjustment proposed by CMS will help alleviate the challenges many beneficiaries have had accessing hospital operating rooms for needed dental surgical procedures.

Another contributing factor to the operating room access challenge is the lack of a sustainable billing mechanism for ASCs to perform dental surgical services that require anesthesia. ASCs can serve as a critical patient access point, particularly for those disabled beneficiaries without timely access to a hospital because of geographic limitations or where hospitals in a community continue to have limited OR capacity, resulting in long patient wait times before a beneficiary can receive surgical care. Medicare does not currently cover dental surgery performed in ASCs, and those Medicaid programs that follow Medicare billing rules often follow suit.

We were so pleased to see CMS include a proposal in the 2023 Physician Fee Schedule (PFS) rule to cover medically necessary dental procedures. We suspect dental surgical procedures that require anesthesia will be included in this coverage, and as part of this effort, it is essential that operating room access be available. For this reason as well as the reasons outlined above, we ask that CMS identify a solution to ensure beneficiaries with disabilities can access medically necessary dental surgical services, whether they are provided in a hospital or an ASC.

Thank you for your time and attention to this important issue. If you have further questions, please contact the Health Task Force co-chairs: Caroline Bergner (cbergner@asha.org), David Machledt (machledt@healthlaw.org), Cinnamon St. John (cstjohn@medicareadvocacy.org), and Peter Thomas (Peter.Thomas@PowersLaw.com).

Respectfully Submitted,

Access Ready
Allies for Independence
American Association on Health and Disability
American Medical Rehabilitation Providers Association
The Arc of the United States
Autism Society of America
Autism Speaks
Autistic Self Advocacy Network
Brain Injury Association of America
Center for Medicare Advocacy
Disability Rights Education and Defense Fund

(continued on next page)
Epilepsy Foundation

Family Voices
Justice in Aging
National Association of State Directors of Developmental Disabilities Services
National Association of State Head Injury Administrators
National Center for Parent Leadership, Advocacy, and Community Empowerment
(National PLACE)
National Disability Rights Network
National Down Syndrome Congress
National Down Syndrome Society
Spina Bifida Association
United Spinal Association

Cc: Natalia Chalmers, DDS, MHSc, PhD, CMS Chief Dental Officer