October 16, 2017

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

Re: CMS–5524–P

Dear Administrator Verma,

The National Association of ACOs (NAACOS) appreciates the opportunity to comment on the agency's proposed cancellation of the Episode Payment Models (EPMs) rule. We continue to believe that CMS must take pause to evaluate the impact of multiple, overlapping programs being implemented in rapid succession. The agency's decision to pull back on the mandatory cardiac bundles and expanded joint replacement bundles is prudent, and we further recommend that CMS use this as an opportunity to evaluate all Alternative Payment Models (APMs) currently in operation and develop a coordinated strategy to ensure success of all payment reform models.

NAACOS is the largest association of ACOs, representing over 3.7 million beneficiary lives through 250 Medicare Shared Savings Program (MSSP) ACOs, Next Generation, and commercial ACOs. NAACOS is an ACO member-led and member-owned non-profit organization that works on behalf of ACOs across the nation to improve the quality of Medicare delivery, population health and outcomes, and health care cost efficiency. NAACOS and its members are committed to transforming the way healthcare is delivered and paid for. Our members are at the forefront of this transformation effort and have invested significant time and resources to their success, which will ultimately improve care for Medicare beneficiaries and reduce costs for CMS. However, it has come to our attention that the numerous competing programs being released in rapid succession by the agency are imposing unintended consequences on existing program operations and goals, including those of the Medicare ACO programs. What's more, the increasing complexity surrounding how the agency operationalizes the overlap of these competing programs is growing at an alarming rate, causing troubling confusion and uncertainty for providers. For this reason, we support the proposal to cancel the EPMs, established by the Center for Medicare and Medicaid Innovation (Innovation Center) under the authority of section 1115A of the Social Security Act. We also support the proposal to prospectively make participation voluntary for all hospitals in approximately half of the geographic areas selected for participation in the Comprehensive Care for Joint Replacement (CJR) model. However, as NAACOS opposes mandatory bundles, we ask the agency to go further and make participation voluntary for all.

As detailed in our recent letter, we are also deeply concerned with the agency's lack of strategic planning and direction in addressing overlap issues. It appears to date, CMS has attempted to deal with overlap on a

per-program basis rather than taking a coordinated and strategic approach. It is essential that the agency develop a more thoughtful approach to program overlap issues, particularly as CMS moves forward with implementation of the Medicare Access and CHIP Reauthorization Act (MACRA). By the agency's estimates, the number of providers participating in APMs will grow dramatically in the coming years, compounding this problem. For example, CMS estimates the number of providers qualifying for Advanced APM bonuses will roughly double in the second year of the Quality Payment Program to total 180,000 to245,000 for the 2020 payment year corresponding to 2018 performance. Therefore, it is critical that CMS address this issue now before the operational challenges grow exponentially and ultimately undermine the progress made to date by APMs currently in existence.

As NAACOS has noted previously, the overlap of bundled and episode payment programs with ACOs creates conflicts when patients attributed to an ACO are also evaluated under a bundled payment program. Under current CMS policy, a bundled payment participant maintains financial responsibility for the bundled payment episode of care and any gains or losses during that episode are linked to the bundled payment participant and removed from ACO results following the close of the performance year. While CMS planned to test an alternative policy by excluding Next Generation and Track 3 ACO beneficiaries from certain episodes, this exclusion would not apply to Track 1 or Track 2 beneficiaries, which comprise the majority of ACO beneficiaries and ultimately, this experiment was later cancelled by the agency. The problem is exacerbated by the fact that ACOs are not permitted to participate as bundlers. ACOs focus on, and make considerable investments in care coordination and improving care transitions to manage post-acute care effectively. Many successful ACOs credit these efforts for allowing them to achieve shared savings.

With the onset of a number of new payment models being advanced by stakeholders in response to MACRA, NAACOS believes this is a crucial issue that must be resolved immediately. Without action by the agency, we risk losing valuable momentum gained by ACOs and others focusing on population health and total cost of care. It is critical that CMS protect the goals of population health focused delivery models. These models, such as the ACO model, are just now gaining momentum and an evidence base to learn from. It is critical that we allow these models to realize their full potential. NAACOS supports the exploration of new payment models, which will ultimately benefit all who are working to reform health care delivery and payment models to better support patients and to contain costs while providing exceptional care. However new payment reform efforts must work in tandem with existing models to prevent impeding on the progress organizations such as ACOs have worked so hard to accomplish to date.

In closing, we support CMS' proposals to cancel the mandatory EPMs and allow voluntary participation in certain markets of the CJR program. However, we believe CMS must also use this as an opportunity to take pause and further evaluate the numerous programs in existence and address the growing problems resulting from program overlap. The complexities, lack of transparency and competing program goals have already made it difficult to evaluate and conclude which programs are responsible for achieving cost savings. We urge CMS to take immediate action to rectify these issues and would be happy to support the agency in devising solutions to these problems that will allow all who are interested and engaged in healthcare reform to be successful.

Respectfully,

Clif Gaus, Sc.D.
President and CEO
National Association of ACOs