799 9th Street NW
Suite 210
Washington, DC 20001

T (202) 354-2600
vizientinc.com

vizient®

July 7, 2020

Submitted electronically via: www.regulations.gov

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

Re: Medicare and Medicaid Programs, Basic Health Program, and Exchanges: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program (CMS-2020-0047-0001)

Dear Administrator Verma,

Vizient, Inc. appreciates the significant flexibility the Centers for Medicare and Medicaid Services (CMS) have provided in response to the COVID-19 public health emergency (PHE) as many of the policy changes have a significant impact on our members and the patients they serve. In response to the interim final rule, "Medicare and Medicaid Programs, Basic Health Program, and Exchanges: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program" (Docket No. CMS-2020-0047-0001) (hereinafter, "IFC"), Vizient offers the following recommendations for the agency's consideration.

Background

Vizient, Inc. provides solutions and services that improve the delivery of high-value care by aligning cost, quality and market performance for more than 50% of the nation's acute care providers, which includes 95% of the nation's academic medical centers, and more than 20% of ambulatory providers. Vizient provides expertise, analytics, and advisory services, as well as a contract portfolio that represents more than $100 billion in annual purchasing volume, to improve patient outcomes and lower costs. Headquartered in Irving, Texas, Vizient has offices throughout the United States.

Recommendations

Vizient is deeply appreciative of the significant effort and flexibility CMS is providing to our nation's health care providers during the COVID-19 pandemic. We applaud the agency for its willingness to hear from frontline health care providers and promptly develop solutions to ease barriers to care and minimize exposure risks. Given the significant transformation our healthcare system has undergone due to COVID-19, we recognize benefits in retaining some of the flexibilities provided during the COVID-19 public health emergency (PHE) and encourage CMS to extend many of these policies. In addition, Vizient encourages the Secretary to consider the fragile state of hospitals' financial well-being in extending or finalizing any policies. COVID-19 has already caused significant financial ramifications for hospitals and health systems that have seen significant losses in revenue due to lower patient volumes and costs incurred in preparing for and responding to the COVID-19 pandemic.

Telehealth

Vizient applauds the agency's rapid response to adapt regulatory frameworks to support access to telehealth services and encourages the agency to extend many of these policies beyond the PHE. From a patient perspective, telehealth supports more proactive contact with a healthcare provider, leading to earlier treatment. In addition, patients receiving services via telehealth can avoid exposure to contagion, overcome transportation barriers (e.g., public transportation, ride-sharing services, driving), among other benefits. Research has shown patient uptick of virtual visits has been rapid in both urgent and non-urgent care settings (i.e., 683% increase in urgent care visits and 4,453% in non-urgent care visits between March 2- April 14 for a New York hospital), and patient satisfaction with telehealth services has been consistent before and after COVID-19, despite this drastic and unexpected shift.[1]

In addition, telehealth has received positive attention from various government agencies. The Centers for Disease Control and Prevention recently noted several benefits of telehealth including, "maintaining continuity of care" and "may increase participation for those who are medically or socially vulnerable or who do not have

[1] Mann, D.M., Chen, J., Chunara, R., Testa, P.A. & Nov, O. (2020). COVID-19 transforms health care through telemedicine: Evidence from the field, *Journal of the American Medical Informatics Association,* 0(0), 1-4, doi: 10.1093/jamia/ocaa072.

ready access to care."[2] However, without more forward-looking information from CMS, providers are unable to make informed, long-term decisions related to telehealth.

Payment for Telehealth
Although telehealth services were historically reimbursed much lower than the in-person rate, during the PHE, CMS provided billing instructions that would ensure a provider would be reimbursed for telehealth services at a rate aligned with the rate that would be paid if those services have been provided in-person. **Vizient applauds CMS for advancing this payment parity policy. Vizient believes CMS may continue to provide these modified billing instructions after the PHE to ensure reimbursement of telehealth services is the same as in-person services.** Given hospitals' and other providers' dire financial circumstances and the need for telehealth services to fit seamlessly in current care delivery models, Vizient believes it is of the utmost importance that payment parity be extended beyond the PHE.

Vizient also commends CMS for allowing audio-only services (e.g., telephone evaluation and management services) and increasing the payment rate, in the IFC, for telephone evaluation and management services so that the rates match payments for similar office and outpatient visits. Allowing patients to receive these services over the phone helps address numerous barriers, ranging from technology, transportation and geographic issues that may otherwise delay or prevent care. **Vizient recommends CMS permanently reimburse telephone evaluation and management services at the rates for similar office and outpatient visits.**

Medicare Telehealth Services
Currently, Medicare fee-for-service covers services provided via telehealth so long as certain requirements are met, including that the service appears on Medicare's list of telehealth services.[3] Typically, services are added to the Medicare Telehealth Services list through the annual Physician Fee Schedule rulemaking process. **Vizient recommends CMS cover broader range of telehealth services, including those added to the Medicare Telehealth List during the PHE**. During the PHE, through both rulemaking and a subregulatory process, CMS temporarily added at least 135 telehealth services to the list of telehealth services Medicare covers. Given the benefits

[2]Centers for Disease Control and Prevention, Using Telehealth to Expand Access to Essential Health Services during the COVID-19 Pandemic, available at: https://www.cdc.gov/coronavirus/2019-ncov/hcp/telehealth.html, last accessed: June 20, 2020.
[3] Centers for Medicare & Medicaid Services, List of Telehealth Services, available at: https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes, last accessed: June 19, 2020.

of telehealth and relationships that have been established during the PHE, providers and patients may prefer this option for care going forward. However, as CMS is aware, utilization and access are often dependent on payer coverage policies. Therefore, Vizient urges CMS to utilize its authority to permanently cover a broader scope of telehealth services, including those added during the PHE, to support patient access to care. Vizient also recommends CMS cover these services as if they were provided in person and, to the extent possible, work with other payers to encourage them to cover these telehealth services, at minimum.

Distant Sites
To help ease administrative burdens and improve access to telehealth services, CMS indicated that providers who furnish telehealth services from their homes do not need to update their Medicare enrollment to include their home location. As enrollment requirements are found in regulation, Vizient believes CMS has authority to extend this change. **Given the need to maintain continuity of care and the popularity of telehealth services, Vizient suggests CMS extend this enrollment policy beyond the PHE.**

Originating and Geographic Site
Vizient appreciates the agency's decision to waive requirements affecting where a patient may receive a telehealth service. Prior to CMS's interim final rules and waivers, access to telehealth services in the home was severely restricted and patients often had to be in certain geographic locations, specifically rural areas. Waiving both the originating and geographic site requirements has significantly expanded the scope of patients eligible to receive telehealth services and provided patients with more options regarding where they receive telehealth services.

As patients grow more comfortable utilizing telehealth services and the other benefits of telehealth become even more apparent (e.g., increasing patient access in underserved communities, limiting patient and provider exposure to COVID-19, supply conservation, particularly personal protective equipment), removing these services and options may cause disruptions in care that harm patients. **While Vizient is aware Congressional action may be needed to permanently expand originating and geographic site flexibilities beyond the PHE, Vizient expresses our support to maintain these policies**. In addition, if no action is taken prior to the expiration of the PHE, Vizient recommends CMS work closely with HHS and stakeholders, including hospitals, other providers and patients, to identify a carefully measured approach to scaling back these policies.

New and Established Patient Access to Telehealth and Communications Technology-Based Services

Vizient applauds CMS for allowing both new and established patients to access telehealth and communications technology-based services (CTBS), such as remote patient monitoring, remote evaluations, virtual check-ins and e-visits, as opposed to only established patients. **Given the uptake of telehealth and CTBS and the need to reach patients in underserved communities or those who may face other access issues, Vizient encourages CMS to continue to allow both new and established patients to receive services via telehealth.**

Temporary Expansion Locations

In the IFC, CMS provides billing flexibilities for the three categories of hospital outpatient therapeutic services: (1) Hospital outpatient therapy, education, and training services, including partial hospitalization program services, that can be furnished other than in-person, and are furnished in a temporary expansion location (may be the patient's home) that is a provider based department (PBD) of the hospital or an expanded Community Mental Health Center (CMHC); (2) Hospital outpatient clinical staff services furnished in-person to the beneficiary in a temporary expansion location (which may be at the home); and (3) Hospital services associated with a professional service delivered by telehealth.

For each of these categories, CMS provides specific billing considerations. Vizient appreciates CMS's flexibility and instruction regarding billing, as it has helped hospitals provide more financially sustainable services that reflect rates more akin to what the hospital would bill under more normal circumstances. **Vizient also encourages CMS to ensure that temporary expansion location policies do not abruptly end at the end of the PHE.** Vizient supports a flexible transition policy to better ensure continuity of care as hospitals and communities continue to fight the spread of COVID-19 and recover from the impacts of the virus.

Relocating Provider-Based Departments (PBDs)

In the IFC, CMS temporarily expands its extraordinary circumstances relocation policy so that certain PBDs that relocate for the purposes of addressing COVID-19 can bill at the outpatient prospective payment system (OPPS) rate, instead of rates established under the Physician Fee Schedule (PFS). An application is required for this exception. Vizient appreciates the agency's flexibility as it has helped support hospitals' ability to protect patients and expand access while providing needed exceptions from site-neutral payment policies that would have discouraged relocations. Because of this, **Vizient recommends CMS extend the IFC's extraordinary circumstances relocation policy after the PHE.**

In addition, as noted in the IFC, CMS anticipates most relocating PBDs will go back to their original location prior to, or soon after, the conclusion of the PHE. If the PBD does not go back to their original location, it will be considered non-excepted PBDs (for purposes of the Bipartisan Budget Act of 2015) and paid at the PFS-equivalent rate. Vizient is concerned CMS's current policy does not provide sufficient clarity or flexibility to relocated PBDs after the PHE, even though CMS acknowledges that relocation may occur after the PHE. Further, since many of consequences of the PHE on care delivery remain to be seen, Vizient encourages CMS to extend this relocation policy beyond the PHE so that hospitals can more carefully plan and consider the best course of action for relocated PBDs.

Supervision

CMS provided additional flexibility in their direct supervision policy which has supported utilization of different practitioners, including residents, when direct supervision is provided using real-time, interactive audio and video technology. Since supervision requirements are addressed in regulation, **Vizient suggests CMS maintain broader direct supervision policies, as described in the IFC.**

Temporary Workforce Flexibility

As COVID-19 spreads across the country, CMS has provided significant flexibility to help hospitals and other providers overcome workforce challenges.[4] For example, in the IFC, CMS temporarily allows teaching hospitals to claim time spent by residents training at other hospitals for indirect medical education (IME) and direct graduate medical education (DGME) purposes. In addition, CMS provided several waivers[5] that have allowed a wider range of health care practitioners to provide and bill for services. Vizient appreciates the agency's decisions to quickly ease regulations and approve waivers to help boost the workforce. **Vizient encourages CMS to continue providing these workforce flexibilities after the PHE that provide flexibility regarding residents' training and the types of providers who deliver care.**

In addition, Vizient appreciates CMS's decisions (e.g., waivers, regulatory changes) to support practitioners practicing at the top of their state scope of practices. For example, certified registered nurse anesthetists (CRNAs) have been redeployed on intubation

---

[4] Centers for Medicare & Medicaid Services, Physician and Other Clinicians: CMS Flexibilities to Fight COVID-19, available at: https://www.cms.gov/files/document/covid-19-physicians-and-practitioners.pdf, last accessed: June 22, 2020.

[5] *See* Centers for Medicare and Medicaid Services, (May 15, 2020), Hospitals: CMS Flexibilities to Fight COVID-19, available at: https://www.cms.gov/files/document/covid-hospitals.pdf, last accessed: July 2, 2020.

teams to independently manage airways as a result of these flexibilities. Vizient suggests CMS maintain these flexibilities after the PHE to continue to support team-based care and more fully utilize the diverse skillsets of health care practitioners.

Holding Hospitals Harms from Reductions in IME Payments Due to Increases in Bed Counts Due to COVID-19

As CMS is aware, to prepare for COVID-19 surges, hospitals have added beds to increase their treatment capacity. Vizient applauds CMS for revising regulations related to the IME payment formula so that, for the purposes of determining a hospital's IME payment amount, the hospital's available bed count is considered to be the same as it was the day before the PHE was declared. In addition, Vizient appreciates the agency's decision to base inpatient rehabilitation facilities' and inpatient psychiatric facilities' teaching status adjustment payment on amounts prior to the PHE. Vizient believes these changes help support medical education while also increasing hospitals' abilities to prepare for surges and care for patients.

Since it is foreseeable that hospitals may need to have additional capacity after the PHE or may be unable to immediately revert to prior ratios, **Vizient recommends CMS clarify that academic medical centers and other facilities who are eligible for teaching status adjustments will not have their IME payments reduced after the PHE.** In addition, CMS could provide a transition policy to support hospitals' as they prepare for future potential surges or attempt to adapt to more regular practices.

Quality Reporting Programs

Vizient appreciates the flexibilities CMS has provided to hospitals by revising extreme and uncontrollable circumstances policies. Vizient works closely with member hospitals to utilize data to identify improvement opportunities. During the PHE, Vizient has received numerous questions from members seeking clarity regarding the different reporting requirements under each program and their reporting options. While the guidance has been helpful, the time-sensitive nature of quality reporting programs (e.g., reporting deadlines) has created significant confusion and uncertainty for hospitals. **Vizient urges the agency to regularly provide user-friendly information (e.g., FAQs, webinars etc.) to hospitals regarding the agency's plans for each of its quality programs, especially as the PHE evolves.**

In addition, as hospitals have had to quickly adapt their operations due to COVID-19, Vizient also notes that it may be more difficult for hospitals to maintain their quality improvement efforts. Hospitals continue to face significant financial uncertainty as a result of COVID-19, including ongoing investments to prepare for surges, recovery from cancellations of non-elective procedures, furloughs, and implementation of re-opening plans, among other changes. **Since quality reporting programs penalize low-performing hospitals and there was such a substantial disruption to the health**

care system, Vizient suggests CMS consider eliminating penalties imposed on hospitals to support their viability. As hospitals attempt to emerge from the financial ramifications of the PHE, each opportunity to support hospitals' financial stability should be utilized.

Reporting Requirement Relief
As noted in this IFC and by CMS in a previous interim rule and guidance, the agency revised and granted different extraordinary circumstance exception (ECE) and extreme and uncontrollable circumstance policies to make certain reporting requirements optional, such as reporting to the National Healthcare Safety Network (NHSN) for healthcare-associated infections measures and the hospital consumer assessment of healthcare providers and systems (HCAHPS) survey data for certain quarters. On July 2, CMS indicated that retroactive to July 1, 2020, the ECE policy announced March 22 will end and data reporting requirements for several quality reporting and value-based payment programs will continue. In the same announcement, CMS indicated the agency may change the way voluntarily reported Q1 and Q2 2020 data are used in some of these programs. Vizient appreciates CMS's efforts to ease burdens on hospitals during the PHE and efforts to make stakeholders aware of the agency's future plans.

Despite these efforts, Vizient has heard several member questions and concerns regarding whether additional flexibility would be provided to hospitals in states that require reporting (e.g., NHSN infection reporting). While CMS indicated on July 2 that future rulemaking will address certain quality reporting program concerns related to voluntary reporting, we recommend the agency continue to develop user-friendly resources that clearly articulate hospitals' options and any associated timelines or deadlines. In addition, since it is unclear how the agency will address those concerns through rulemaking, **Vizient recommends CMS hold hospitals harmless or provide additional, broad ECE policies that clearly and seamlessly allow more hospitals, including those that voluntarily report data, to be granted an exception.** Also, Vizient notes our concern that CMS is not extending the ECE policy which made reporting optional in future quarters.

<u>Next Steps</u>
As noted throughout our comments, **Vizient urges CMS to provide permanent policies or transitional periods for many of the flexibilities that have been provided during the PHE**. As the nation overcomes the crisis, providing hospitals with the necessary lead time to begin finding a new, normal course of hospital care delivery is essential.

Unlike other public health emergencies hospitals have faced, the COVID-19 crisis is worldwide and could extend many more months or years. The way hospitals view and prepare for emergencies is changing as a result of COVID-19, along with the supply

chain and how patients receive care. As these changes have occurred quickly, Vizient encourages CMS to provide additional education to hospitals and other providers to support their utilization and understanding of these flexibilities. CMS will need to coordinate its continued response, and carefully consider the long-term ramifications in order to support a sustainable and thriving health care environment.

Vizient highly recommends CMS continue to work with stakeholders, including hospitals, to determine which of the many regulatory flexibilities offered during the crisis should be extended and what additional flexibilities are needed. To the extent CMS is unable to determine whether a policy should be extended, Vizient suggests CMS gain stakeholder feedback and err towards providing flexibility to hospitals before redacting policies without a proper transition period.

Conclusion

Vizient appreciates CMS's extensive discussion of options and its emphasis on engaging with stakeholders through regulatory comments and other mechanisms to inform the agency on the impact of specific proposals.

Vizient membership includes a wide variety of hospitals ranging from independent, community-based hospitals to large, integrated health care systems that serve acute and non-acute care needs. Additionally, many are specialized, including academic medical centers and pediatric facilities. Individually, our members are integral partners in their local communities, and many are ranked among the nation's top health care providers.

In closing, on behalf of Vizient, I would like to thank CMS for providing us the opportunity to comment on this important IFC. Please feel free to contact me or Jenna Stern at jenna.stern@vizientinc.com, if you have any questions or if Vizient may provide any assistance as you consider these issues.

Respectfully submitted,

Shoshana Krilow
Vice President of Public Policy and Government Relations
Vizient, Inc.