



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

June 3, 2011

Kathleen Sebelius, Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: Proposed Rule—Medicare Shared Savings Program: Accountable Care Organizations

File Code: CMS-1345-P

Delivered electronically via <http://www.regulations.gov>

Dear Secretary Sebelius:

We submit these comments on behalf of the American Psychological Association (APA), the professional organization representing 154,000 members and affiliates engaged in the practice, research and teaching of psychology, regarding the proposed rule to implement payments to providers and suppliers participating in Accountable Care Organizations (ACOs) in the Medicare Shared Savings Program, as published in 76 *Federal Register* 19528, et seq., on April 7, 2011. Congress enacted the Medicare Shared Savings Program as part of the Affordable Care Act (ACA) to build on value-based purchasing efforts already under way at the Centers for Medicare and Medicaid Services to improve care and lower growth expenditures. The APA suggests that an ACO model that fully integrates mental and behavioral health and substance use disorder services with physical health services is an important means to accomplish these goals.

To fully integrate mental and behavioral health and substance use disorder care that an ACO provides, clinical psychologists should be included as ACO participating providers and suppliers of care. Therefore, the APA is pleased to see and agrees with your decision to use your authority provided by section 1899(b) of ACA to expand the list of those providers eligible to participate in ACOs to include clinical psychologists and other providers and suppliers not specifically named in the statute. We believe that inclusion of clinical psychologists as ACO participants will be critically important to ensuring that Medicare beneficiaries receive the mental and behavioral health and substance use disorder services they need. For this reason, we urge that this provision be implemented in the final rule.

Primary care providers furnish more than half of mental health treatment in this country.ⁱ It is estimated that between 10% and 20% of the population consults a primary care clinician during the course of a year because of a mental health concern.ⁱⁱ Furthermore, we have known for several decades that there is a high prevalence of psychiatric disorders seen in primary

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care with prevalence studies yielding a wide range of estimates from 16% to 43%.ⁱⁱⁱ About 25% of all primary care recipients have diagnosable mental disorders.^{iv} Common presenting problems include depression, anxiety, stress-related disorders, psychosomatic illnesses, drug and alcohol abuse, domestic violence and adjustment disorders related to chronic and traumatic illnesses.^v

Yet many mental health problems are not identified in primary care. Estimated rates of failure by primary care practitioners to detect psychiatric disorders range from one half to two thirds.^{vi} Depression, for example, occurs in 6% to 10% of primary care patients.^{vii} Older adults are particularly vulnerable in an unintegrated system, since many of them are treated in primary care for a variety of health conditions, and their depression may go undiagnosed and untreated.^{viii} Inadequate interviewing skills and experience in the management of psychosocial problems and mental disorders are two factors related to the nonrecognition of such problems.^{ix} Moreover, primary care practitioners often overlook these types of problems and focus on the diagnosis and treatment of physical health symptoms.^x

To ensure that Medicare beneficiaries enrolled in ACOs receive accurate diagnosis and treatment of their mental and behavioral health and substance use disorder needs, it is vitally important that the Secretary recognizes clinical psychologist eligibility for participation in ACOs. Such recognition will more fully integrate clinical psychologists in ACOs so that non-psychiatric physicians, physician assistants, nurse practitioners, clinical nurse specialists and other primary care providers may fully coordinate care and treat the patient within the ACO as necessary.

As you well know, the Secretary has the authority under section 1899(b) of ACA to specify ACO participants to include providers and suppliers as defined under 42 C.F.R. § 400.202. This section in the federal code defines suppliers to include practitioners who provide health care services under Medicare. Clinical psychologists, as health care practitioners under the Medicare statute,^{xi} are therefore eligible to participate and to provide services to Medicare beneficiaries enrolled in ACOs.

We recognize that even if you had not used your authority to allow clinical psychologist participation in ACOs, Medicare beneficiaries would still have had access to the services our members provide. Congress made clear in establishing the Shared Savings Program that care was to be coordinated, and we agree with you that part of coordination entails referrals to Medicare providers, such as clinical psychologists, outside of the ACO, when necessary. For example, we strongly concur with your following statement:

The strategies employed by an ACO to optimize care coordination should not impede the ability of a beneficiary to seek care from providers that are not participating in the ACO, or develop policies to place any restrictions that are not legally required on the exchange of medical records with providers who are not part of the ACO. We are proposing to prohibit the ACO from developing any policies that would restrict a beneficiary's freedom to seek care from providers and suppliers outside of the ACO.^{xii}

It is indeed important that ACOs do not act as gatekeepers that restrict beneficiary access to care. Many ACOs may not ultimately have the range of providers to furnish the care that their enrolled beneficiaries need and will need to refer patients out for services. In addition, patients should be free to seek care outside of their ACO. An ACO will play an important role in care coordination but should not restrict Medicare beneficiaries from receiving services from the providers of their choice.

Therefore, while ACOs should allow the free flow of care among providers within and outside the ACO in a coordinated manner, clinical psychologists should be incentivized to provide care as part of the ACO primary care team. This is best accomplished by allowing, as the Secretary does, clinical psychologist participation in an ACO. When an ACO includes clinical psychologists as participants, it better ensures integration of mental and behavioral health and substance use disorder services with physical health services and a more comprehensive integrated care system.

Clinical psychologists participating in ACOs may provide critical primary care functions. They may provide, for example, health and mental health services that include the prevention of disease and the promotion of healthy behaviors in individuals, families and communities.^{xiii} In primary care, clinical psychologists provide patient-centered mental and behavioral health and substance use disorder services, including those related to prevention, diagnosis, evaluation, assessment, treatment and management services. Clinical psychologists design, implement and evaluate behavioral interventions to address patient treatment compliance in the management of acute and chronic health conditions, such as diabetes, heart disease, obesity, cancer and depression. Clinical psychologists also have a basic understanding of the common biomedical conditions seen within primary care, the medical and pharmacological treatments of those conditions, and how they interact and affect the psychosocial functioning of the patient.^{xiv}

Particular to most Medicare beneficiaries, clinical psychologists provide a range of services to older adults, some unique to their training and licensure. For example, clinical psychologists—

- ✓ Conduct cognitive, capacity, diagnostic, and personality assessments that differentiate normal aging from pathology, side effects of medications, adjustment reactions or combinations of these problems.
- ✓ Offer behavioral health assessment and treatment that provide older adults with the skills necessary to effectively manage their chronic conditions.
- ✓ Diagnose and treat mental and behavioral health problems (e.g., depression or suicide risk).
- ✓ Offer consultation and recommendations to family members, significant others and other health care providers.
- ✓ Contribute research expertise to the design, implementation and evaluation of team care and patient outcomes.
- ✓ Develop interventions that are responsive to specific individual and community characteristics that may impact the treatment plan.

The APA, therefore, believes that ACOs will function most effectively when they include clinical psychologists as participants to coordinate with other ACO providers and suppliers in

delivering mental and behavioral health and substance use disorder care that is fully integrated with the physical health care provided to Medicare beneficiaries.

Not only will care be effective, but it will also be efficient and may result in cost savings. It has long been recognized that the provision of psychological services can lead to a decline in general medical services,^{xv} a concept generally known as “medical cost offset.” Medical interventions in an ACO will be informed by the mental and behavioral health and substance use disorder services that clinical psychologists provide to potentially reduce costs for the treatment of comorbid conditions, chronic pain, adherence to medical regimens and preparing individuals psychologically for surgical and medical procedures, among other aspects of care.

Cherokee Health Systems in Tennessee, for example, is a model for integrating mental and behavioral health with primary care. Cherokee Health Systems reports an average 30% medical cost offset related to the impact of a behavioral health consultant in primary care.^{xvi} Since an underlying rationale for developing ACOs under the Shared Savings Program is to provide better care for enrolled individuals and lower growth expenditures, potential medical cost offset associated with the services that clinical psychologists provide warrants their inclusion as ACO participants.


Due to the critical need of Medicare beneficiaries for the unique and important mental and behavioral health and substance use disorder services that clinical psychologists provide, the APA urges that the Secretary’s proposal to allow clinical psychologists to participate in ACOs be included in the final rule.

The APA appreciates the opportunity to submit these comments. Please contact Doug Walter, J.D., Legislative and Regulatory Counsel, Government Relations, APA Practice Organization, at dwalter@apa.org or (202) 336-5889, if you have further questions regarding our comments.

Sincerely,



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Chief Executive Officer



Katherine C. Nordal, Ph.D.
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ⁱ World Health Organization (2008). Integrating Mental Health into Primary Care: A Global Perspective. ISBN 9789241563680. Available at: http://www.who.int/mental_health/resources/mentalhealth_PHC_2008.pdf

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- ^{xi} A clinical psychologist is a health care practitioner in the Medicare program, as defined at §1842(b)(18)(C)(v) of the Social Security Act.
- ^{xii} See page 19547 of the proposed rule.
- ^{xiii} For definition of primary care psychology, see Bray, J.H, Frank, R.G., McDaniel, S.H., & Heldring, M. (2004). Education, practice, and research opportunities for psychologists in primary care. In R.G. Frank, S.H. McDaniel, J.H. Bray, M. Heldring (Eds.), *Primary Care Psychology* (pp. 3-21). Washington, DC: American Psychological Association.
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