



December 31, 2019

Joanne Chiedi
Acting Inspector General
Department of Health and Human Services
Attention: OIG-0936-AA10-P
Room 5521, Cohen Building
330 Independence Avenue SW
Washington, DC 20201

RE: Medicare and State Healthcare Programs: Fraud and Abuse; Revisions to Safe Harbors under the Anti-Kickback Statute and Civil Monetary Penalty Rules Regarding Beneficiary Inducements, OIG-0936-AA10-P

Submitted electronically via www.regulations.gov

Dear Ms. Chiedi,

I am writing on behalf of the National Association of Health Underwriters (NAHU), a professional association representing more than 100,000 licensed health insurance agents, brokers, general agents, consultants and employee benefits specialists. We are pleased to have the opportunity to provide comments in response to the proposed rule published in the *Federal Register* on October 17, 2019, titled "Medicare and State Healthcare Programs: Fraud and Abuse; Revisions to Safe Harbors under the Anti-Kickback Statute and Civil Monetary Penalty Rules Regarding Beneficiary Inducements."

The members of NAHU work on a daily basis to help individuals and employers of all sizes purchase, administer and utilize health insurance coverage. The clients our members serve include individual Medicare beneficiaries, other Americans seeking individual health insurance coverage, and employers and employees covered under group health benefit arrangements of all kinds. As such, ensuring that high-quality and affordable private health insurance options are available to all Americans is one of our association's highest priorities.

NAHU members appreciate the intent of the proposed rule, which is to help ensure that Medicare and the private market can move away from the traditional fee-for-service healthcare delivery and payment systems and toward more value-based based systems of care and provider payment. We believe that moving Medicare and the private market in this direction is a way to curb unsustainable healthcare cost growth, and will provide consumers with more meaningful care options.



NAHU approves of the concept of creating greater certainty for healthcare providers participating in value-based arrangements and providing coordinated care for patients. It is our hope that providing safe harbors to allow providers to better coordinate care for patients will eventually lead to more value-based plan designs for health insurance consumers and outcome-based payment arrangements that reward improvements in patient health. Our membership also appreciates the rule's focus on improving care coordination for consumers by allowing for better communication among providers and across care settings, including both the federal healthcare programs and private-market care and coverage arrangements.

However, as the Office of the Inspector General moves forward to finalize the proposed rule, NAHU encourages you to review the proposed safe harbors with the goal of ensuring that they do not incent providers to steer patients to enrollment in one plan design instead of another. We would like you to ensure that any final rule effectively prevents physician steering with regard to certain healthcare services that are largely unaffected by the quality of the provider, such as laboratory tests or treatments like kidney dialysis. Finally, while we fully support a more value-based payment model for services that lead to better patient care, we feel that it is essential to include long-term assessments as part of a final rule. That way, CMS can ensure that its changes lead patients toward true quality outcomes over time. Perhaps any final rule could stipulate that CMS will conduct follow-up implementation evaluations over the next few years with the goal of identifying any potential obstacles or problems with the systems so that they can be addressed in subsequent rulemaking and guidance.

NAHU sincerely appreciates the opportunity to provide comments on the proposed rule. If you have any questions or need additional information about our thoughts on this critical matter, please do not hesitate to contact me at either (202) 595-0787 or jtrautwein@nahu.org.

Sincerely,

A handwritten signature in black ink, reading "Janet Trautwein". The signature is written in a cursive style with a large, looping initial "J".

Janet Stokes Trautwein
Executive Vice President and CEO
National Association of Health Underwriters