September 10, 2021

Chiquita Brooks-LaSure, MPP
Administrator
Centers for Medicare & Medicaid Services
ATTN: CMS-1753-P
7500 Security Boulevard
Baltimore, MD 21244

RE: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model; Request for Information on Rural Emergency Hospitals

Dear Administrator Brooks-LaSure:

The Renal Physicians Association (RPA) is the professional organization of nephrologists whose goals are to ensure optimal care under the highest standards of medical practice for patients with kidney disease and related disorders. RPA acts as the national representative for physicians engaged in the study and management of patients with kidney disease. Part of RPA’s mission is to promote excellence in the delivery of high-quality kidney care within an environment that supports patient access to care and safety.

RPA is writing to offer our input on the 2022 Hospital Outpatient Prospective Payment and Ambulatory Surgical Center (HOPPS/ASC) Payment Systems proposed rule. Our comments will address the following issues:

- **Proposal To Halt the Elimination of the Inpatient Only (IPO) List in CY 2022**
- **Proposed Device-Intensive Ambulatory Surgical Center (ASC) Covered Surgical Procedures**

**Proposal To Halt the Elimination of the Inpatient Only (IPO) List in CY 2022**

RPA is aware that since the onset of the Outpatient Prospective Payment System (OPPS), CMS has maintained a list of services that due to their medical complexity would only be reimbursed by Medicare when provided in the inpatient setting—the Inpatient Only (IPO) list. Existence of the list is reflective of CMS’ responsibility to ensure the safety of Medicare beneficiaries. That said, advances in technology, surgical techniques, and outpatient health care delivery led CMS
to continually evaluate which services or procedures should be on the IPO list, and eventually with the 2021 rulemaking cycle, whether consideration should be given to eliminating the IPO list altogether. However, with the proposed 2022 rule CMS has outlined its plans to halt the elimination of the IPO list, and to return to it codes previously removed from the list. RPA strongly appreciates CMS’ emphasis on patient safety and commends the Agency for its willingness to reconsider previously established policies when necessary and appropriate.

RPA is also cognizant of the economic implications of this decision for outpatient services and procedures provided in the ASC setting such as those for the creation and maintenance of dialysis vascular access, and we are supportive of CMS’ proposal to halt elimination of the IPO list in that regard as well. Persons requiring dialysis vascular access care are among the most vulnerable patient sub-populations in the Medicare beneficiary universe; threats to the availability of their care are understandably disturbing if not harmful. Additionally, CMS has had a more intense focus on value-based kidney care that treats patients with kidney disease more holistically and seeks to minimize hospital readmission and infections; convenient access to these services must be maintained.

Unfortunately, reimbursement for dialysis vascular access services in both the physician’s office-based lab and ASC settings have been subject to substantial actual or potential instability in recent years, for numerous reasons. Accordingly, CMS’ decision to halt elimination of the IPO list and remove the attendant risk to predictable payment for dialysis vascular access care in the context of the ambulatory payment classification (APC) system is a positive step in preserving access to these services. RPA supports CMS’ decision to halt elimination of the IPO list, for the positive effect this determination will have on patient safety and stable reimbursement for vascular access care.

Proposed Device-Intensive Ambulatory Surgical Center (ASC) Covered Surgical Procedures

In the proposed rule, CMS outlines its plans to revise its process for determining device-intensive status in the ASC setting by calculating the device offset percentage using ASC rates and not basing them on the OPPS, as has previously been the case. The Agency notes in the rule its previous stance was based on the belief procedures should not be device-intensive in one setting and not in another. However, the rule goes on to say that “the different ratesetting methodologies used under the OPPS and ASC payment system can create conflicts when determining device intensive status” and this “methodology has caused confusion among stakeholders and has denied device-intensive status to procedures with significant device costs.” RPA concurs, and again is appreciative of CMS’ responsiveness to stakeholder input and willingness to revise policies when appropriate. We believe this proposal, similar to the decision to eliminate the IPO list, will promote stability in dialysis vascular access reimbursement. RPA supports CMS’ decision to base ASC device-intensive status on ASC rates.

As always, RPA welcomes the opportunity to work collaboratively with CMS in its efforts to improve the quality of care provided to the nation’s kidney patients, and we stand ready as a resource to CMS in its future work on the OPPS/ASC payment system. Any questions or
comments regarding this correspondence should be directed to RPA’s Director of Public Policy, Rob Blaser, at 301-468-3515, or by email at rblaser@renalmd.org.

Sincerely,

[Signature]

Timothy A. Pflederer, MD FASN FASDIN
RPA President