September 8, 2023

Administrator Chiquita Brooks-LaSure
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–1784–P
P.O. Box 8016
Baltimore, MD 21244–8016

RE: Medicare and Medicaid Programs; CY 2024 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Advantage; Medicare and Medicaid Provider and Supplier Enrollment Policies; and Basic Health Program

Dear Administrator Brooks-LaSure:

Thank you for soliciting feedback on the Centers for Medicare and Medicaid Services' (CMS') proposed regulations to update health care provider payment policies and reporting programs. We appreciate your leadership on advancing public policies to improve the nation's health. We urge CMS to finalize provisions in the proposed rule that aim to facilitate interoperability using certified electronic health record technology (CEHRT). These actions are critical to improving data exchange between health care providers and public health agencies.

The Pew Charitable Trusts is a non-profit research and policy organization with several initiatives focused on improving the quality and safety of patient care. Specifically, Pew's Public Health Data Improvement project conducts research, provides technical assistance, and advocates for policies, resources, and public health department practices to enable the rapid and effective use of health care data to advance Americans' well-being.

Please note that in addition to the comments discussed below regarding data interoperability, Pew's Substance Use Prevention and Treatment Initiative will submit additional comments under separate cover, detailing recommendations regarding the Agency's proposed payment policies for audio-only assessments furnished by opioid treatment programs and telehealth services provided by rural health centers and federally qualified health centers.

Thank you again to CMS for the opportunity to provide input and for your continued dedication to this issue. Please contact Kyle Kinner (kkinner@pewtrusts.org) in our Government Relations practice for additional information or questions.

Sincerely,

Lilly Kan
Project Director, Public Health Data Improvement
The Pew Charitable Trusts

### Comments on Proposed Promoting Interoperability Requirements for Shared Savings Program Accountable Care Organizations (ACOs) – Section III.G.2.h.(2-3)

Pew applauds the steps CMS has taken to enhance data exchange through the Promoting Interoperability performance category under the Merit-Based Incentive Payment System (MIPS), which encourages health care providers to use CEHRT in meaningful ways. CMS' continued efforts to improve the use of CEHRT and evolve reporting requirements for ACOs and their participants have the potential to expand the group of health care providers currently reporting on the Promoting Interoperability performance category.

Pew specifically supports CMS' proposal for performance years beginning on or after January 1, 2024, unless otherwise excluded, to require that all MIPS eligible clinicians, Qualifying Alternative Payment Model (APM) participants (QPs), and Partial Qualifying APM Participants (Partial QPs) participating in the ACO to (1) report the MIPS Promoting Interoperability performance category measures; and (2) earn a MIPS Promoting Interoperability performance category score.

Pew also supports CMS' proposal to require ACOs to publicly report the number of MIPS eligible clinicians, QPs, and Partial QPs participating in the ACO that earn a MIPS performance category score for the MIPS Promoting Interoperability performance category at the individual, group, virtual group, or APM entity level.

Past data has shown that (1) primary care physicians participating in MIPS were significantly more likely to electronically exchange information with public health agencies; and (2) not all providers are electronically exchanging data with public health agencies despite having technology with the capability to send information using automated, standard mechanisms.[1-2] Given the 10.9 million people with Medicare who receive care from the 573,126 health care providers in the 456 ACOs participating in the shared Savings Program,[3] it is critical to expand provider participation in the Promoting Interoperability performance category to address circumstances where relevant data from these providers is not currently reaching public health agencies through electronic reporting. While certain providers and ACOs may already be reporting MIPS Promoting Interoperability performance category measures, which include actively engaging with public health agencies to electronically submit data, Pew emphasizes the importance of ensuring public health data reporting from all applicable providers. Furthermore, requiring ACOs to publicly report the number of clinicians that earn a score for the MIPS Promoting Interoperability performance category can both hold ACOs more accountable for reporting requirements and yield useful insights for addressing gaps in participation.

### Feedback on Approaches to Modifying CMS Policies, Requirements, and Standards under MIPS – Section IV.A.3.c-d

In response to CMS' question regarding whether it should consider, in future rulemaking, changes in policies to assess performance to ensure ongoing opportunities for continuous improvement, Pew recommends the future implementation of a (1) measure for immunization registry reporting that moves clinicians beyond attestation; and (2) requirement for syndromic surveillance measure reporting within the Promoting Interoperability performance category.

*Immunization registry reporting*: Among primary care physicians that indicated electronically exchanged information with public health agencies, immunization data was the most common type of data they exchanged.[1] While current efforts should continue to increase the number of clinicians electronically reporting immunization data to public health agencies, CMS should also consider phasing in a measure with a numerator and

denominator for clinicians that already attest to electronically submitting immunization data. Implementing such a performance-based measure would make information available to assess progress and support improvements in the timeliness and quantity of electronic immunization data successfully submitted. For the CMS Quality Payment Program 2023 call for Promoting Interoperability performance category measures, Pew proposed the following performance-based measure: total number of administered vaccines reported successfully within 24 hours over total number of vaccines administered. In addition, the Office of the National Coordinator for Health Information Technology (ONC), is exploring the implementation of a measure that would require health information technology (IT) developers of relevant certified health IT products to report on the number of records of immunizations administered that were sent electronically to an immunization information system during a given reporting period.[4] This action signals the possibility of a third party intermediary reporting on behalf of a clinician and potential to mitigate provider reporting burden.

*Syndromic surveillance reporting*: Some outpatient physicians, such as those who practice at urgent care facilities, have meaningful syndromic surveillance data that would substantially benefit public health agencies. Syndromic surveillance reporting provides public health officials with data on a range of public health issues that can help create situational awareness before they become crises.[5] Requiring the syndromic surveillance reporting measure under MIPS would (1) align with the corresponding Promoting Interoperability Program requirement for eligible hospitals and critical access hospitals; and (2) enable public health agencies to expand the data sources they receive. Given the significance to current and future public health efforts, it is important for CMS to continue to support the transition to syndromic data reporting in the final rule.

These changes to the immunization registry and syndromic surveillance reporting measures are important for leveraging existing technologies to improve data sharing that is essential for responses to the COVID-19 pandemic and other public health threats. CMS' proposed changes to align requirements and further drive reporting to the MIPS Promoting Interoperability performance category, plus considerations of future policy changes, are key steps toward improving electronic reporting among clinicians and generating important information for addressing gaps in data exchange between clinicians and public health agencies.

1. C. Richwine et al., "Electronic Public Health Reporting & Recording of Social & Behavioral Determinants of Health Among Office-Based Physicians, 2019," *ONC Data Brief* (August 2022) no.60, https://www.healthit.gov/data/data-briefs/electronic-public-health-reporting-recording-social-behavioral-determinants-health.
2. Y. Pylypchuk et al., "Interoperability Among Office-Based Physicians in 2015, 2017, and 2019," *ONC Data Brief* (July 2022) no.59, https://www.healthit.gov/data/data-briefs/interoperability-among-office-based-physicians-2019.
3. The Centers for Medicare and Medicaid Services, "Shared Savings Program Fast Facts – As of January 1, 2023," January 2023, https://www.cms.gov/files/document/2023-shared-savings-program-fast-facts.pdf
4. 21st Century Cures Act; HHS Proposed Rule on Health Data, Technology, and Interoperability (HIT-1): Certification Program Updates, Algorithm Transparency, and Information Sharing, 88 Fed. Reg. 23746 (April 18, 2023), https://www.federalregister.gov/documents/2023/04/18/2023-07229/health-data-technology-and-interoperability-certification-program-updates-algorithm-transparency-and
5. National Association of County and City Health Officials, "The *Forces of Change* in America's Local Public Health System," November 2018, https://www.naccho.org/uploads/downloadable-resources/2018-Forces-of-Change-Main-Report.pdf.