



*Submitted via [www.regulations.gov](http://www.regulations.gov)*

September 2, 2014

Marilyn Tavenner  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1611-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

Dear Administrator Tavenner:

The American Federation of Teachers represents 1.6 million members, including 112,000 healthcare professionals—84,000 of whom are registered nurses. As a representative of nurses and healthcare professionals, including home health nurses, we submit the following comments on the proposed home health prospective payment system rate update for CY2015.

1. Home health agencies' funding should not be cut below 2014 levels.

Our members are committed to shaping a healthcare system that serves the needs of communities and puts patients first. High-quality home care is an integral part of a healthcare system that meets those goals. However, the proposed net cut to home health agencies of \$58 million is a step in the wrong direction.<sup>1</sup>

The Affordable Care Act calls for a phased-in adjustment, or “rebasings,” of home health payments based on “changes in the number of visits in an episode, the mix of services in an episode, the level of intensity of services in an episode, the average cost of providing care per episode, and other factors that the Secretary considers to be relevant.”<sup>2</sup> The proposed rule would implement the second year of these rebasing cuts.

The ACA also draws upon the Medicare Payment Advisory Commission’s expectation that Medicare agencies will increase the efficiency with which they deliver services at a rate roughly equal to private-sector efficiency gains. This idea suggests that as the agencies’ productivity increases, their need for Medicare

American Federation  
of Teachers, AFL-CIO

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AFT Nurses and Health  
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AFT Teachers  
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555 New Jersey Ave. N.W.  
Washington, DC 20001  
202-879-4400  
[www.aft.org](http://www.aft.org)

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Randi Weingarten  
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Loretta Johnson  
SECRETARY-TREASURER

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AFT Nurses and Health  
Professionals 

Candice Owley  
CHAIR, PROGRAM AND  
POLICY COUNCIL

Ann Twomey  
VICE CHAIR, PROGRAM AND  
POLICY COUNCIL

Kelly Trautner  
DIRECTOR

T: 202-879-4491  
F: 202-879-4597  
E: [AFTHealthcare@aft.org](mailto:AFTHealthcare@aft.org)  
[www.aft.org/healthcare](http://www.aft.org/healthcare)

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<sup>1</sup>*Federal Register*, July 7, 2014, p. 38414.

<sup>2</sup>Patient Protection and Affordable Care Act, Sec. 3131.



reimbursement should decrease.<sup>3</sup> As a result, the ACA calls for Medicare home health payments to be reduced by a “productivity” adjustment, starting in 2015.<sup>4</sup>

The rebasing and productivity adjustments lead to a proposed net decrease in payments to home health agencies for 2015 of approximately \$58 million.<sup>5</sup> This means that home health agencies are expected to provide services with less Medicare funding than they received in 2014, even though inflation has risen 2.1 percent in the last year.<sup>6</sup>

This reduction in payments to home health agencies is troubling, especially given the great potential for high-quality home care to help keep people well and reduce unnecessary health spending—two important goals of the ACA. Home health nurses are a lifeline for patients who otherwise would be forced into hospitals or other institutions. Not only is home care often the most patient-centered choice, it is often the most cost-effective as well.

Home health agencies are already laying off employees and forcing the remaining nurses to care for too many patients in too little time.<sup>7</sup> The proposed cuts will make it even more difficult for homebound patients to receive the care they need to stay out of hospitals or skilled nursing facilities.

The AFT encourages the CMS to revisit the methodology used to calculate the proposed cuts and make every effort to ensure that home health agencies have adequate funding to deliver safe and effective care.

## 2. Front-line caregivers should have a seat at the table in the development of a home health value-based purchasing program.

The proposed rule indicates that the CMS is considering testing a home health value-based purchasing program, with a demonstration project starting as soon as CY2016. We believe that front-line caregivers should be a part of the development of any value-based purchasing program. Bedside nurses can provide valuable insight into the types of measures that indicate high-quality care. We would like to participate in the development of a home health value-based purchasing program, and ask that the CMS provide ample opportunity for front-line caregivers to shape the program’s development.

## 3. Advanced practice registered nurses should be permitted to certify face-to-face encounters with their patients.

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<sup>3</sup>Congressional Research Service, “Medicare Provisions in the Patient Protection and Affordable Care Act (PPACA),” April 23, 2010.

<sup>4</sup>Patient Protection and Affordable Care Act, Sec. 3401(e).

<sup>5</sup>*Federal Register*, July 7, 2014, p. 38414.

<sup>6</sup>As measured by the Bureau of Labor Statistics all items index before seasonal adjustment, for the 12 months ending June 2014 ([www.bls.gov/news.release/cpi.nr0.htm](http://www.bls.gov/news.release/cpi.nr0.htm)).

<sup>7</sup>Linda Ocasio, “UFT Outraged by VNS Layoffs,” United Federation of Teachers, April 17, 2014.

Currently, in order for Medicare to reimburse a patient's home health services, a physician must document that a face-to-face encounter with the patient took place. The proposed rule does not change that requirement. However, by eliminating the physician narrative requirement, the proposed rule does attempt to "simplify the face-to-face encounter regulations [and] reduce [the] burden for HHAs and physicians."

We ask that the agency go a step further in this simplification process and permit advanced practice registered nurses to certify face-to-face encounters. Given that APRNs are currently conducting many face-to-face encounters, the requirement for a physician to certify that the encounter took place is redundant. Allowing APRNs to practice to the full scope of their education, training and licensure would bolster the efficiency and quality of home care.

Thank you for the opportunity to comment on these important issues.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Trautner".

Kelly D. Trautner  
Director, AFT Nurses and Health Professionals