POWERS

POWERS PYLES SUTTER & VERVILLE PC

ATTORNEYS AT LAW

MEMORANDUM

To: **ACRM**

From: **Peter Thomas, Steve Postal and Anna Caruso**

Date: **September 12, 2017**

Re: **Summary of MedPAC Meeting: Encouraging Medicare Beneficiaries to Use Higher-Quality Post-acute Care Providers**

On September 7, the Medicare Payment Advisory Commission (MedPAC), an independent legislative branch agency that provides Congress with analysis and policy advice on the Medicare program, held a meeting that included the following session: *Encouraging Medicare beneficiaries to use higher-quality post-acute care providers.* MedPAC staff, Evan Christman, opened the session by presenting the slide deck found here. The presentation focused on a long-standing principle of the Medicare program; patient choice of provider. The discussions included information on the difficulties of beneficiaries selecting post-acute care (PAC) providers, the discharge planning process, and potential expanded efforts that would encourage higher-quality PAC use. The presentation largely mirrored the slide deck.

Steering patients to specific PAC providers following discharge. Commissioner Pat Wang asked if the discharge planners have strong opinions in giving advice to patients on which PAC providers to use following discharge. Mr. Christman answered that they did but were hesitant to give advice as it may constitute "steering." Commissioner Paul Ginsburg stated he was in favor of allowing hospitals to steer patients to specific PAC settings, given that the hospitals are increasingly integrated with PAC, and more financially at risk for quality due to bundling models.

Commissioner Dana Gelb Safran commented that it did not make any sense for physicians to be able to recommend specialists, but hospitals to be prohibited from recommending PAC providers. She stated that there should be a way that hospitals can show patients metrics on PAC providers that would be helpful to assist them in choosing the highest quality providers. Commissioner Alice Coombs expressed that it was important for providers to be allowed to steer the patient. Mr. Christman noted that the Comprehensive Care for Joint Replacement (CJR) model was unique in that CMS waived the standard rules prohibiting steering. Mr. Christman stated that under CJR, hospitals can recommend specific PAC providers, but this is limited in scope to hip and knee replacements.

Patient preference vs. provider recommendation. Commissioner Warner Thomas asked if a PAC payment system should favor patient preference or provider recommendation. Commissioner David Grabowski stated that the provider and the beneficiary jointly "own" the discharge. Commissioner Thomas said that he would be hesitant to leave the discharge decision to the beneficiary, and that representing a provider, he believes he has an obligation to his former

patients post-discharge. Mr. Christman said that if CMS favors patient preference, it could possibly incorporate a greater beneficiary financial stake in the payment model, i.e. through cost-sharing. Mr. Christman stated that if CMS favors provider recommendation, it must give hospitals new tools, i.e., the ability to steer patients.

Enhancing the patient portal model. Commissioner Grabowski suggested that hospitals and beneficiaries should use an online portal to coordinate PAC care. He also favored enhancing the capabilities of the existing Hospital, Nursing and Home Health Compare portals. He criticized Nursing Home Compare's five-star rating system, stating that it conflates long- and short-stays into a single quality assessment. He argued, for example, that it is not necessarily the case that one provider that is good at providing short-stay PAC care is also good at providing long-stay chronic care. He also highlighted a lot of information that was missing in Nursing Home and Home Health Compare, including: the ability to have a private room, the volume of care, satisfaction data, and the presence of clinical services.

Commissioner Jack Hoadley stated that arguments against allowing MedPAC to advocate for allowing steering can be neutralized by stating any financial arrangements between hospitals and PACs in these portals. Commissioner David Nerenz also criticized Nursing Home Compare for not correlating measures. For example, Commissioner Nerenz noted that if a beneficiary chooses a nursing home with the lowest readmission rate, he is not picking the one that has the lowest pressure ulcer rate.

Discharge planning. Commissioner Bruce Pyenson stated that discharge planning is probably the most valuable part of a patient's care in terms of reducing cost and improving quality, and MedPAC should focus further research on this. Commissioner Brian DeBusk agreed.

Feedback loop. Comm. Kathy Buto stated that there is a lack of a "feedback loop" on information about patients post-discharge from hospitals, as that PAC providers often do not update the hospitals on their patients. Comm. Coombs also appreciated the need for a feedback loop and stated that such a feedback loop does exist with providers that follow up with patients.

Quality measures. Comm. Paul Ginsburg suggested that to assess quality of PAC settings, providers must rely not only on ratings but on informal information like patient satisfaction.

Medicare Advantage. Commissioner Bruce Pyenson noted that Medicare Advantage (MA) post-acute care (PAC) spending is dramatically lower than Medicare fee-for-service, and was wondering if there was a way to see if MA plans favor higher quality PAC sites. Mr. Christman answered that MedPAC staff can look into this, and noted that MA plans manage the SNF benefit very differently than fee-for-service does. [***Editor's note***: One of the reasons PAC spending is less in MA plans than under Medicare fee-for-service is that MA plans employ proprietary guidelines to "steer" patients away from higher intensity rehabilitation settings, such as inpatient rehabilitation hospitals and units. If fact, MedPAC data reveals that MA beneficiaries have dramatically less access to IRF care than do fee-for-service beneficiaries.]

Hospital Readmissions Reduction Program. Commissioner Rita Redberg stated that she does not favor expanding the Hospital Readmissions Reduction Program, as readmissions are not a good indicator of hospital quality.