



June 17, 2022

Ms. Chiquita Brooks-LaSure, MPP
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Baltimore, MD

RE: RIN 0938-AU84

Dear Ms. Brooks-LaSure,

Led by The Leapfrog Group, the undersigned organizations represent patient safety advocates, patients, health care consumers, employers, and health care workers. While some organizations are submitting separate comment letters on the 2023 Hospital Inpatient Prospective Payment (IPPS) Proposed Rule, we have joined together here to **express our strong opposition to CMS' proposal to suppress calculation and publication of the CMS Patient Safety and Adverse Events Composite (CMS PSI 90) for FY 2023**. Suppressing CMS PSI 90 would be a giant leap backward in patient safety and transparency, literally life-threatening, and an outrageous violation of the trust Americans place in the Medicare program.

In its rule, CMS proposes to suppress the PSI 90 measure *“due to the fact that the reference period (calendar year 2019) ... does not include data affected by the COVID-19 Public Health Emergency and the applicable period (calendar year 2020) does include such data, this would result in risk adjustment parameters that do not account for the impact of COVID-19 on affected patients.”*¹ While we recognize that the COVID-19 pandemic has put an unprecedented strain on the entire health care system, we firmly reject the implication that this is an adequate reason to simply stop reporting lifesaving patient safety information. Indeed, in the middle of a global pandemic, it is more important than ever that the public have access to information that could save their lives.

We oppose the proposal to suppress PSI 90 for the following reasons:

- **25,000 Deaths A Year Should Never Be Ignored or Hidden**
The 10 dangerous complications that make up PSI 90 are largely preventable yet kill 25,000 people per year and harm 94,000.² There is no other publicly available source for data on the complications included in PSI 90. If CMS suppresses it, the American public will be in the dark

¹ Centers for Medicare and Medicaid Services, *RIN 0938-AU84 Medicare Program*, 2022. Page 913.

²Armstrong Institute for Patient Safety and Quality, *Lives Lost, Lives Saved: An Updated Comparative Analysis of Avoidable Deaths at Hospitals Graded by The Leapfrog Group*, May 2019: <https://www.hospitalsafetygrade.org/media/file/Lives-Saved-White-Paper-FINAL.pdf>.

Agency for Healthcare Research and Quality, *Patient Safety Indicators (PSI) Benchmark Data Tables, v2021*, July 2021: https://qualityindicators.ahrq.gov/Downloads/Modules/PSI/V2021/Version_2021_Benchmark_Tables_PSI.pdf

on which hospitals put them most at risk. Suppressing PSI 90 would be a giant leap backward in patient safety and transparency, literally life-threatening, and an outrageous violation of the trust Americans place in the Medicare program. Medicare beneficiaries and the American public have the right to access this lifesaving data.

- **Dangerous Spikes in Infections and Medical Errors Are Relevant**

Suppressing information on hospital dangers covers up an alarming spike in those dangers that federal officials themselves have warned us about. Just two months ago, leaders at CMS and CDC reported that since 2020, federal data shows a significant increase in the number of common hospital infections and patient safety mistakes.³ These federal officials have the data, but now want to suppress much of it from the American public.

It is particularly concerning that most of the patient safety measures included in PSI 90 reveal significant health care disparities. While health inequities are often caused by sociodemographic factors outside the health care system, the data included in PSI 90 allows policymakers and researchers to see the differential impact on people of color by hospital patient safety lapses. For example, Black patients are 27 percent more likely to experience sepsis after an operation than white patients and are 15 percent most likely to experience a kidney injury requiring dialysis. By proposing to suppress information on PSI 90, CMS is effectively seeking to hide invaluable data regarding real inequities in health care delivery.

- **Suppression Directly Contradicts the May 2022 Recommendation of the Office Inspector General, Which Found Alarming Problems with Patient Safety and Advised CMS to Add More Safety Measures – Not Take Critical Ones Away**

In early May, the HHS Office of the Inspector General (OIG), an independent governmental watchdog, reported that one in four Medicare beneficiaries admitted to a hospital were harmed by an error or accident during the stay.⁴ The OIG advised that CMS' current reporting on safety problems is inadequate to capture all the dangers they discovered, and recommended CMS expand their reporting to include more measures. In the report, CMS agreed. But now CMS is heading in the opposite direction: instead of expanding measures, they want to suppress ten of those they currently report.

³ Fleischer, MD *et al.* "Health Care Safety During the Pandemic and Beyond - Building a System that Ensures Resilience, *New England Journal of Medicine*, February 17, 2002: <https://www.nejm.org/doi/full/10.1056/NEJMp2118285>

⁴ Department of Health and Human Services, Office of the Inspector General, *Adverse Events in Hospitals: A Quarter of Medicare Patients Experienced Harm in October 2018*, May 9, 2022. <https://oig.hhs.govAd/oei/reports/OEI-06-18-00400.asp>

⁵ Gangopadhyaya, Anuj. Do Black and White Patients Experience Similar Rates of Adverse Safety Events at the Same Hospital? Urban Institute. July 2021. <https://www.urban.org/research/publication/do-black-and-white-patients-experience-similar-rates-adverse-safety-events-same-hospital>

Recommendations

Given our profound opposition to the suppression of PSI 90 data, we offer the following recommendations to CMS:

1. **Withdraw the Proposal to Suppress New PSI 90 Data in 2023:** CMS should fully withdraw its proposal to suppress the calculation and publication of PSI 90 data and should publish its data on its regular schedule, or preferably in a more timely fashion.
2. **Continue to Maintain Publication of Previous PSI 90 Data:** It is important that historians, public health experts, and policymakers have access to all previous PSI 90 data from Calendar Year 2019 and years previous.
3. **Do Not Suppress Future Measures Without Public Comment:** The American public deserves to have access to lifesaving data about hospital quality and safety. If CMS continues to propose to suppress these types of measures, it is imperative that they allow the public to comment before a decision is made so others can see the rationale and share feedback.

We thank you for the opportunity to comment on this rule and look forward to working with CMS to advance patient safety and transparency, by putting the needs of Medicare beneficiaries and the American public at the forefront of policy.

Sincerely,



Leah Binder, M.A., M.G.A.
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The Leapfrog Group

Cosigning Individuals and Organizations Supporting these comments:

Organizations

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Alabama Employer Health Consortium
Ariadne Labs/ Harvard School of Public Health
Arizona Benefit Consultants LLC
Building4Health, Inc.
Bukaty Companies
California Health Care Coalition
California Schools VEBA
Catherine M Baase, MD Consulting LLC
Center for the Study of Services/Consumers' Checkbook
Chicago Hispanic Health Coalition
Citrus Pulmonary and Sleep Disorders
Connecticut Center for Patient Safety (CTCPS)
Council for Affordable Health Coverage

DFW Business Group on Health
Economic Alliance for Michigan
Employee Benefit Consultants, Inc
Florida Alliance for Healthcare Value
Fringe Benefit Analysts, LLC
Gillroy & Associates Inc
Greater Philadelphia Business Coalition on Health
Health Action Council
Healthcare Purchaser Alliance of Maine
Heartland Health Research Institute
Houston Business Coalition on Health
HR Policy Association
ICI
Louisiana Business Group on Health
Louisiana Health Care Quality Forum
Lucerno Dynamics
Mothers Against Medical Error
MGH Stoeckle Center for Primary Care Innovation
Moxtek
New England Patient Voices
New Jersey Health Care Quality Institute
Nile's Project mrsa
North Carolina Business Group on Health
OAI Consult, Dba
Patient Advocate Certification Board
Patient Safety Action Network
Patient Safety Advocacy
Patient Safety America
Patients for Patient Safety US
Pennsylvania Health Access Network
PHC4
Pittsburgh Regional Health Initiative
PURCHASER BUSINESS GROUP ON HEALTH
Rhode Island Business Group on Health
Robert Slayton & Associates, Inc.
Sepsis Alliance
Silicon Valley Employers Forum
St. Louis Area Business Health Coalition
SwipeSense
The Burrows of Hollywood, Inc.
The ERISA Industry Committee
The Mosaic Company
The Texas Patient Safety Initiative
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