

January 16, 2020

Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244  
PatientsOverPaperwork@cms.hhs.gov

**RE: Executive Order #13890, Protecting and Improving Medicare for Our Nation's Seniors**

The American Nutrition Association appreciates the opportunity to offer input on Executive Order #13890, Protecting and Improving Medicare for Our Nation's Seniors.

***Background***

The ANA's Board for Certification of Nutrition Specialists<sup>SM</sup> (BCNS<sup>SM</sup>) is the foremost certifying body for advanced nutrition professionals. BCNS' Certified Nutrition Specialist<sup>®</sup> (CNS<sup>®</sup>) certificants earn an advanced degree in nutrition or clinical healthcare, complete a robust nutrition science curriculum, perform 1000 hours of documented nutrition practice experience, and pass BCNS' rigorous Certification Examination for Certified Nutrition Specialists.

The CNS certification is fully accredited by the National Commission for Certifying Agencies, the preeminent accrediting organization for certifying programs, which is the same accreditation held by the Registered Dietitian credential.

This Executive Order seeks to help providers deliver efficient and value-based care through choice and competition. To accomplish this important goal, we urge Medicare to end current requirements for physician referral for medical nutrition therapy and to ensure that qualified nutrition professionals may offer intensive behavioral therapy for obesity in any setting.

***Medical Nutrition Therapy Regulations***

Currently Medicare covers a limited amount of Medical Nutrition Therapy for beneficiaries with diabetes or kidney disease. (42 CFR § 410.130) Regulations

authorize qualified nutritionists or dietitians to provide these services, however, only upon physician referral. (42 CFR § 410.132)

The physician referral requirement is an unnecessary burden on individuals in need of health care. Nutrient insufficiency and imbalances are key drivers of chronic disease and associated costs, and nutrition care can be effectively provided directly by the nutrition professionals themselves. Seniors and other Medicare beneficiaries should be able to seek out covered medical nutrition therapy services to address chronic disease independent of physician referral. Qualified nutrition professionals are trained to analyze the individual client's nutrient imbalances that drive disease processes. This training prepares nutritionists to recognize subclinical alterations in biochemistry that provide detailed maps for how to manage or reverse disease processes through nutrition and nutrient supplementation.

While a “healthy diet” is essential to good health, a history of a poor diet, exposure to environmental triggers, stress and one's own genetics all significantly alter biochemical processes, including altering gene expression, to produce what we call “disease”. Nutrition professionals are the sole healthcare professionals whose training is dedicated to providing nutrition-based healthcare. Allowing Medicare beneficiaries to seek nutrition care without a physician referral allows qualified nutrition professionals to practice to the full extent of their education and training, and reduces unnecessary patient visits and access barriers to these important services.

### ***Behavioral and Weight Loss Counseling***

Within its authority under 42 CFR § 410.64, and outlined in a November 2011 decision memorandum regarding Intensive Behavioral Therapy for Obesity (CAG-00423N), Medicare also covers behavioral and weight loss counseling for people diagnosed with obesity provided by physicians, practitioners, or “auxiliary personnel”. However, these services are covered only when provided within a physician's office. While many nutritionists are located in this type of setting, the majority work in private practice in their own office or in a group practice with other nutritionists.

We urge recognition of qualified nutrition professionals as providers of behavioral weight loss counseling regardless of their practice setting. Given nutrition is and must be a key component of intensive behavioral therapy for obesity, patients should be empowered to access these services at the location of their choosing.

We appreciate consideration of our comments.

Sincerely,

Brittany Dawn McAllister, MPH  
Director of Legislative and Regulatory Affairs