December 4, 2018

Ms. Raina Josberger
Director, Division of Special Populations
Office of Quality and Patient Safety
NYS Department of Health
Corning Tower, Empire State Plaza
Albany, NY 12237

RE: Proposed 2019 Nursing Home Quality Initiative Methodology

Dear Ms. Josberger:

I am writing on behalf of LeadingAge New York to provide our comments on the Department of Health's (DOH's) proposed 2019 methodology for the Nursing Home Quality Initiative (NHQI) authorized in Section 2808 of the Public Health Law.

General Comments

We are pleased that the payment adjustments associated with the NHQI for preceding years of the program are being made, and that efforts are underway to finalize the methodology for the upcoming year as soon as possible. Future efforts should continue to focus on the timeliness of reporting the results of each year, making the associated payment adjustments and finalizing the methodology for the upcoming year. Taken together, we believe this timing sequence would enhance the opportunity to realize quality improvements in any given year, more closely link the results to the feedback, and better fulfill the underlying intent of the program.

LeadingAge NY has consistently expressed concerns about the policy of funding the quality pool by commensurately reducing overall Medicaid payments by $50 million annually. This policy adds to the negative impacts many facilities are experiencing from the implementation of the statewide pricing methodology and the lack of a Medicaid inflationary adjustment over the last several years. In fact, we believe that continuing to fund this program out of the base could have the perverse effect of detracting from quality in an already underfunded system. We maintain that quality funding should instead be derived from shared savings resulting from Medicaid redesign and/or other sources.

Quality Measures (QMs) for Falls and Urinary Tract Infections (UTIs)

The *Percent of Long Stay Residents Experiencing One or More Falls with Major Injury (Long Stay)* and *Percent of Residents With a Urinary Tract Infection (Long Stay)* are both included in the Centers for Medicare and Medicaid Services (CMS) Five-Star rating system. At issue is evidence suggesting that performance on these QMs has largely topped out after years of gradual improvements. The statewide average for the falls measure remained unchanged from 2017, with a sizeable decline in the maximum

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value. For the UTI measure; however, the statewide average fell by over 20 percent between 2017 and 2018, with similar declines across each of the quintiles.

We support continued use of the QMs for falls and UTIs in 2019. Poor performance on these measures is associated with potentially avoidable hospital use, a major focus of the NHQI and other state and federal policy initiatives. There are concerns with each of the potential replacement measures:

- The *Percent of Residents Who Have/Had a Catheter Inserted and Left in Their Bladder (Long Stay)* shows a low average value, one that is already better than the nation. The UTI measure already in use captures one of the major risks of extended catheter use.
- The *Percent of Residents Who Were Physically Restrained (Long Stay)* shows a very low average value, suggesting that there may not be meaningful differences in performance at the quintile level.
- *The Percent of Residents Whose Ability to Move Independently Worsened (Long Stay)* is a relatively new measure that incorporates various exclusions and risk adjustments. The New York average on the measure is below that of the nation, but there could be potential for improvement in the measure. Given the need to carefully evaluate the measure's exclusions and risk adjustments, and since there are already one or more activities of daily living-related measures included in the NHQI, we recommend further analysis of this measure prior to any deployment.

We would recommend retaining the current point values for the falls and UTIs measures (i.e., 5 points each) for 2019 and assigning points based on quintile performance rather than a threshold value, which we believe lends itself more to a process measure than to an outcome measure.

Staffing Measures

LeadingAge NY supports the Department's deliberate approach to replacing the Medicaid cost report with the Payroll-Based Journal (PBJ) as the data source for the *Rate of Staff Hours per Day* and *Percent of Contract/Agency Staff Used*. Various issues related to PBJ reporting rules and the integrity of staffing and census data, particularly in the early stages of implementation, have caused concerns about the consistency and reliability of the staffing ratings in *Nursing Home Compare*.

In light of these concerns and given impending major changes to the Medicare skilled nursing facility resident classification system and patient assessment schedule effective Oct. 1, 2019, we agree that the Department should conduct comparative analyses of these two staffing QMs during 2019 using the Medicaid cost report method and a PBJ method. A move away from utilizing the cost report for these measures could improve the timeliness of reporting of final NHQI results to facilities and enhance consistency with the CMS Five-Star staffing rating. For 2019, however, we recommend continued use of the Medicaid cost report as the data source.

Dental Care

The data derived from the Minimum Data Set (MDS) Section S question on dental care are consistently showing that nearly half of all long-stay residents are receiving neither routine nor emergent dental care since the last assessment. We are concerned that this may indicate some issues in properly completing the question or in how the data are being captured.

For instance, the regulations at 10 NYCRR § 415.17 require an initial oral examination of each resident within 7 days of the initial comprehensive assessment and **annually** thereafter. Treatment priorities identified during any exam must begin within 30 days of the examination. However, if the assessments shown in the data are more frequent than annual for each resident, it is clearly possible that a substantial number of assessments will not reflect routine or emergent dental care since the last assessment.

LeadingAge NY agrees that it would be useful to provide facilities with their own data and information on the measure for input.

Long-Stay Discharge to Community

We are appreciative of the Department's intent to incorporate a measure in the NHQI that would reward nursing homes that discharge long stay residents to the community. The proposed measure, *Long-Stay Residents Who Were Successfully Discharged to the Community* is adapted from the CMS measure, *Percentage of Short-Stay Residents who were Successfully Discharged to the Community.* We have some significant concerns with the proposed measure:

- The CMS measure is based on a short-stay population for whom discharge to the community is the most important outcome of nursing home care. For an individual who is receiving long term care in a nursing home, arguably the most important outcome is to manage chronic illnesses and prevent or delay functional decline.
- The relatively small number of discharges of long-stay residents would be addressed by basing the measure on a rate per 10,000 long-stay days. However, magnifying the measure to this degree will tend to make it more unstable, and much more sensitive to factors outside of a facility's control such as the availability of safe housing, home care services and informal caregivers.
- It is unclear whether the denominator for the measure would include the total number of days contributed by all long stay residents, or only those residents who have expressed a desire to be discharged based on the MDS question Q0300: *Resident's Overall Expectation*. The measure may not capture what is intended if the denominator includes those who have not expressed an expectation of being discharged from the facility.
- The Department would need to be able to determine whether a discharged resident had an unplanned inpatient hospital stay or died within 30 days of the community discharge, which could present data challenges and timing issues. The CMS short-stay measure excludes outpatient emergency department visits and outpatient observation stays, and an argument could be made that hospital stays for reasons unrelated to the individual's nursing home care should also be excluded.

- The CMS measure excludes residents from the denominator if they were ever enrolled in hospice care during their nursing home episode. We believe such an exclusion should be applied in any long-stay measure.
- The CMS measure includes 9 risk adjustments, several of which should be examined for this purpose including age, sex, end stage renal disease and Outcome-specific Comorbidity Index.
- The nursing home length of stay should be analyzed for those long-stay residents discharged to the community. It is possible that a significant number of the discharged residents are individuals who entered as short-term residents, and slightly over-stayed the Medicare post-acute care benefit period (which is a maximum of 100 days). If so, this could have a major bearing on what the measure is actually capturing.

Conclusion

Thank you for the opportunity to provide input on the proposed 2019 NHQI methodology. LeadingAge NY remains interested in working with DOH and other stakeholders on the development and implementation of the NHQI program. If you have any questions on our comments, please contact me at (518) 867-8383 or dheim@leadingageny.org.

Sincerely,

Daniel J. Heim
Executive Vice President

cc: Mark Kissinger, DOH