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September 17, 2018

Seema Verma

Administrator

Centers for Medicare & Medicaid Services

Hubert H. Humphrey Building

200 Independence Avenue, S.W., Room 445-G

Washington, DC 20201

***RE: CMS-1695-P, Medicare Program: Proposed Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Requests for Information on Promoting Interoperability and Electronic Health Care Information, Price Transparency, and Leveraging Authority for the Competitive Acquisition Program for Part B Drugs and Biologicals for a Potential CMS Innovation Center Model***

Dear Administrator Verma:

On behalf of Maine’s 36 hospitals and their affiliates*,* the Maine Hospital Association appreciates the opportunity to comment on the provisions contained in the Centers for Medicare & Medicaid Services’ (CMS) calendar year (CY) 2019 hospital outpatient prospective payment system (OPPS) proposed rule.

In November of 2015 Congress passed Section 603 of the Bipartisan Budget Act of 2015 which reduced Medicare payments to newly developed hospital outpatient departments (HOPDs) established after that date. Although this was an unfortunate decision that Congress made, it was also an important step because it “excepted” or “grandfathered” the existing HOPDs under the OPPS payment system and preserved the existing reimbursement so that hospitals could continue to provide these important services and ensure that Medicare patients maintain continued access to the highest quality hospital care in their communities.

Incredibly, the Centers for Medicare & Medicaid Services Calendar Year 2019 Outpatient Prospective Payment System Proposed Rule completely betrays Section 603 of the Bipartisan Budget Act of 2015 and severely reduces Medicare payments to grandfathered HOPDs. This reduction is accomplished in two ways. First, it simply slashes payments for all HOPD clinic visits to forty percent of the OPPS rate. Second, it slashes payments to forty percent of the OPPS rate for new services provided in the HOPD from a clinical family for which the HOPD did not previously deliver and bill for during 2015.

The combination of these two sections of this proposed rule would reduce Medicare payments to Maine hospitals by an estimated total of $30 - $40 million per year. This substantial reduction in a small state like Maine is unprecedented, devastating and a true game-changer for Maine’s hospitals and the state’s entire healthcare delivery system. Maine’s hospitals have survived on

average operating margins of below two percent for each of the past five years. Nine of the sixteen hospitals impacted by this cut experienced negative operating margins in the most recent year for which the data is available. Losses of an additional $30 - $40 million in Medicare reimbursement will clearly result in hospital closures and other reductions in services to Medicare and other patients.

One reason why the impact on Maine is so large and disproportionate is because an estimated 70% of physician services in Maine are provided by physicians and professionals working for hospitals and providing the services in HOPDs.

A second reason is because Maine has one of the oldest populations in the nation. Twenty-three percent of Maine’s population is on Medicare compared with the national average of seventeen percent. This five percent difference may not seem like a lot at first glance**,** but if Maine had the same percentage of its population on Medicare as the average state**,** there would be close to 70,000 fewer patients depending on the Medicare program for their healthcare needs. Maine would have far more patients covered by commercial health insurance if these people were younger and working**,** and Maine hospitals would be in a stronger financial position because of it.

***The Importance of Properly Reimbursing HOPDs***

Maine hospitals organize their physicians and other professionals in off-campus excepted HOPDs to better serve their patients. Many of these services, and especially primary care services are organized in off-campus HOPDs simply because of the large geographic areas that need to be covered and the limited number of physicians that are available to cover the area. The alternative is for Medicare patients to travel great distances to a hospital in an urban center to receive services. Many Medicare patients are simply unable to travel these distances, especially for standard clinic services which often involve multiple visits to the physician’s office.

HOPDs provide services to more low**-**income and underserved patients than typical physician office settings provide. For example, HOPDs are required to utilize the hospitals Financial Assistance Policy (FAP) for the patients served there. In Maine this means that the HOPD must accept Medicaid and provide care free of charge to any patient with income below 150% of the federal poverty level. Because of this, patients seen in HOPDs are 2.5 times more likely to be covered by Medicaid, are eligible for free care, or are self-pay patients. Patients are also 1.8 times as likely to be dually eligible for Medicare and Medicaid and are 1.7 times more likely to live in a low-income area.

HOPDs provide different services to patients than a typical physician office does. In fact, physicians often refer more difficult and complex patients to an HOPD setting as opposed to a regular physician office. Patients are twice as likely to receive care from a nurse in addition to a physician at an HOPD**,** and other important services such as laboratory, imaging, chemotherapy, surgical and many other reasonable and necessary services are available to Medicare beneficiaries in these settings. Reducing payments for these services is unwise and will severely limit access to these types of care for Medicare beneficiaries.

***Expansion of Services***

CMS proposes that if an off-campus HOPD expands the types of services it provides to a new service from a clinical family for which it did not previously furnish and bill for during a

baseline period which is defined as November 1, 2014 – November 1 2015, then those services

will no longer be covered as an outpatient department service. Instead, it would be a service reimbursed as a regular physician service and reimbursed at 40 percent of the OPPS amount. This is extremely problematic. Off-campus HOPDs must be able to expand the items and services that they offer in order to meet changes in clinical practice and the changing needs of their communities without losing their ability to be reimbursed under the OPPS. Given the rapid pace of technological advances in medicine, the treatments and services offered by HOPDs today will inevitably evolve into newer, innovative and more effective care in the future. CMS policy must not hamper access to innovative technologies and services. For example, many Maine hospitals are considering establishing Medication Assisted Treatment(MAT)Services for patients suffering from substance use disorder. These services are currently lacking across Maine, especially in our rural areas. MAT services are best organized in primary care settings, which for most Maine hospitals are organized in HOPDs. Prohibiting a hospital from expanding the types of services provided in HOPDs will unnecessarily limit access to new and innovative services like MAT and others that will inevitably evolve in coming years. CMS must ensure that patients continue to have access to the services they need at the facilities where they seek treatment. We strongly urge CMS to protect Maine hospital**s’** ability to offer an expanded range of services without experiencing a severe loss of reimbursement.

***Section 603 of the Bipartisan Budget Act of 2015***

When Congress passed Section 603 of the Bipartisan Budget Act of 2015, it was a clear and deliberate action to preserve the existing OPPS rate structure for “excepted” or “grandfathered” HOPDs. It was also a clear and deliberate action to maintain a Medicare reimbursement difference between existing and newly established practices as well as existing practices and Ambulatory Service Centers and regular physician practices. The clear reason for this is because these HOPDs play such a critical role in their communities that they need to continue to exist and be financially viable.

Given these reasons, it is inconceivable that CMS would disregard Section 603 of the Bipartisan Budget Act of 2015 entirely and propose an enormous 60 percent Medicare rate reduction for such large amounts of critical physician services provided in Maine and around the country. A Medicare reimbursement reduction of this magnitude will change the healthcare landscape in Maine and result in significant service reductions, physician office closings, and likely the closure of entire hospitals.

For these reasons we strongly urge CMS to not move forward with this reimbursement reduction and maintain the existing PPS payment system for excepted HOPDs.

Sincerely,



David Winslow

Vice President of Financial Policy

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