TO: CHA Member Hospitals

FROM: Alyssa Keefe, Vice President Federal Regulatory Affairs, and Megan Howard, Senior Policy Analyst

SUBJECT: CMS federal fiscal year 2020 outpatient prospective payment system proposed rule

On August 9, the Centers for Medicare & Medicaid Services (CMS) released its federal fiscal year (FFY) 2020 outpatient prospective payment system (OPPS) [proposed rule](https://www.calhospital.org/cha-news-article/cha-issues-summary-ipps-proposed-rule). **CHA needs your help providing input** to the agency as some of the proposed changes to the payment system will harm California hospitals.

CHA has provided the attached comment letter template so you can support CHA’s opposition to the proposed changes to:

* Price transparency proposals
* Changes to the Medicare area wage index

**We encourage you to personalize this letter by placing it on your hospital letterhead and replacing sections highlighted in yellow with hospital-specific information**.

**Before you submit your letter, please be sure to delete any yellow highlighted sections you did not fill in.**

**It is critical that you submit a PDF of your letter electronically at** [**www.regulations.gov/document?D=CMS-2019-0109-0002**](http://www.regulations.gov/document?D=CMS-2019-0109-0002) **by 2 p.m. (PT) on September 27**. If you submit comments to CMS, please share them with CHA’s Nicole Hoffman at nhoffman@calhospital.org.

DATE

Seema Verma

Administrator

Centers for Medicare & Medicaid Services

Hubert H. Humphrey Building

200 Independence Avenue, SW, Room 445-G

Washington, D.C. 20201

***SUBJECT: CMS-1717-P, Medicare Program; Medicare Program: Proposed Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Proposed Revisions of Organ Procurement Organizations Conditions of Coverage; Proposed Prior Authorization Process and Requirements for Certain Covered Outpatient Department Services; Potential Changes to the Laboratory Date of Service Policy; Proposed Changes to Grandfathered Children’s Hospitals-Within-Hospitals; Proposed Rule, Federal Register (Vol. 84, No.154), August 9, 2019***

Dear Administrator Verma:

<Hospital name> has one mission: to help our community live healthier. Day in and day out, our <XXX> employees work to support the needs of a diverse community and provide high-quality patient care to all who walk through our doors. We do this critical work on increasingly narrow financial margins, driven in part by our aging population, California’s high cost of living, and decreasing reimbursement. Ensuring Californians are able to access the care they need, when they need it, is core to our work – and that work is jeopardized by the payment and policy proposals set forth in the Centers for Medicare & Medicaid Services (CMS) outpatient prospective system (OPPS) proposed rule. On behalf of the <XXX> patients we serve each year, we urge you to reconsider certain policies, based on the following:

* The proposed price transparency of standard charges does not provide patients with the information they want.
* Changing AWI-based reimbursement will harm, not help, California’s rural hospitals.

Detailed explanations of these concerns follow.

1. **Proposed price transparency of standard charges does not provide what patients want to know.**

Patients consistently say that the hospital price information they want is what their *out-of-pocket costs* will be for elective procedures. But publishing standard charges and negotiated payments from insurers will not provide this information, thereby confusing, rather than informing, patients and the public. Put another way, negotiated payments and charges are not indicative of a patient’s cost-share for services, and the intent of transparency is to let patients know what their out-of-pocket costs are expected to be. **CMS should immediately abandon this policy and work with stakeholders on policy approaches that meet patients’ needs.**

Moreover, negotiated rates between a hospital and an insurance company cannot be divulged by a hospital without running afoul of laws that protect proprietary information and trade secrets. Because hospitals rely heavily on the confidentiality of health plan-negotiated charges to permit them to negotiate with health plans, disclosing these rates would unduly burden our hospital’s ability to enter into competitive contracts**.**

**We also disagree that CMS has any authority to require hospitals to disclose these rates.**

HOSPITAL NAME strongly supports meaningful, accurate, and consumer-friendly transparency. However, CMS’ approach will not improve patients’ understanding of their costs, as it will require us to disclose the amount the patient’s insurer pays for health care services, not the amount the patients themselves will be required to pay for treatment in our hospital.

Lastly, in addition to the policy and legal concerns, we believe that CMS fundamentally underestimates the significant and burdensome operational challenges its proposal represents.

[*PLEASE* *INCLUDE HERE INFORMATION ON THE EXPECTED BURDEN FOR YOUR HOSPITAL/HEALTH SYSTEM. POINTS THAT YOU COULD MENTION and INCLUDE: how long it took your facility to comply with the January 1, 2019 requirement, how many full-time equivalent hours you estimate would be required to implement this proposal, the technology and vendors you would need to acquire or contract with, and a description of what your organization already does to assist patients in accessing estimates of their out-of-pocket costs.* ***Most importantly, describe and quantify the staff resources and good work you do on a day-to-day basis in helping patients navigate their insurance benefits and provide them with your best estimate of their of out-of-pocket costs.***

1. **Changing AWI-based reimbursement, though designed to help rural hospitals, may actually hurt some.**

<HOSPITAL NAME> is committed to providing high-quality patient care to any and all who need it. As we strive to retain a workforce robust enough to meet patients’ needs, the ever-increasing gap between supply and demand makes this all the more challenging. Combine this with California’s high cost of living — in 2017, the cost of goods and services in California was 14.8% above the national average[[1]](#footnote-1) — and it is clear why California hospitals must expend greater resources on staffing compared to other states (upward of 57% of hospital spending statewide is on labor-related costs[[2]](#footnote-2)). We believe failure to account for these cost discrepancies turns a blind eye to the economic realities of the nation’s cost-of-living disparities.

CMS’ Medicare area wage index proposal to help the lowest-wage hospitals would offset increased payments to the lowest 25 percent of AWI hospitals by recalculating – and lowering – the AWI used to reimburse *all* hospitals. For California, this means a significant loss of resources for patient care, which will strain our already stretched health care system. While we laud the goal of this proposal — to protect rural hospitals that are vital to their communities — this policy would aid low-wage hospitals, not necessarily rural hospitals. The two are not always the same thing. **This is a dangerous precedent in area wage index policy. CMS does not have the legal authority to make this reduction under the inpatient prospective payment system (IPPS), or to make any similar reduction under OPPS. <Hospital> strongly opposes any reduction to OPPS payments that would result from implementation of the IPPS policy to increase the AWI of the hospitals in the lowest AWI quartile.**

<For my hospital, the loss is estimated at $XXXX for Medicare hospital outpatient payments alone. >

<*PLEASE INCLUDE HERE: If you serve a rural community, add your own story here. Describe geography and patients served. What would happen to your community if these cuts were allowed?>*

Sincerely,

NAME

TITLE

HOSPITAL NAME

1. Bureau of Economic Analysis, US Department of Commerce. <https://www.bea.gov/news/2019/real-personal-income-states-and-metropolitan-areas-2017>, last accessed June 17, 2019 [↑](#footnote-ref-1)
2. 2017 Office of Statewide Health Planning and Development Hospital Annual Financial Data [↑](#footnote-ref-2)