May 23, 2023

Dear Members of the California Congressional Delegation:

On behalf of our more than 400 member hospitals and health systems, I write to express my concern about the negative impact that expanding Medicare site-neutral payment policies to hospital outpatient departments (HOPDs) will have on access to care for California's most vulnerable seniors.

While it may appear that all care is of equivalent complexity regardless of delivery setting, HOPDs are, indeed, quite different in terms of the complexity of care they provide, the vulnerability of beneficiaries they serve, and additional rules with which they must comply.

Preserving access to care for at-risk Medicare beneficiaries is paramount and HOPDs provide critical services that may not be readily available in other community settings. Beneficiaries who receive care in HOPDs are clinically more complex, illustrated by Medicare claims data. As an example, 31% of beneficiaries receiving care in HOPDs were originally enrolled in Medicare due to disability and/or end-stage renal disease compared to 19% in independent physician offices. As a result of these and other factors, beneficiaries undergoing a procedure in an HOPD were 2.8 times more likely to have visited an emergency department and 3.6 times more likely to have had an inpatient stay in the past 90 days than those receiving care in an ambulatory surgery center.

Also, Medicare beneficiaries receiving care in HOPDs are more likely to be among society’s most vulnerable. These patients are 1.9 times more likely to be enrolled in both Medicare and Medicaid and 1.5 and 1.4 times more likely to be Black and Hispanic, respectively, than Medicare beneficiaries receiving care in independent physician offices.

Further, because of their safety-net roles, **HOPDs have more comprehensive licensing, accreditation, and regulatory requirements than independent physician offices and ambulatory surgery centers**. This includes compliance with the Emergency Medical Treatment and Labor Act (EMTALA), and stricter requirements for disaster preparedness and response. In California, that entails significant capital costs associated with seismic compliance, stringent ventilation and infection control codes, quality assurance, accreditation, and fire and life safety codes. Site-neutral payment policies fail to account for these fundamental differences among hospitals and other ambulatory care settings.

It is clear that Medicare's most vulnerable beneficiaries depend on HOPDs for access to care that can address their complex clinical needs. However, expansion of Medicare site-neutral payment policies would jeopardize the ability of California’s hospitals to continue providing this access.

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California's hospitals continue to face unprecedented financial pressure resulting from labor market and supply chain disruptions, coupled with inadequate Medicare reimbursement. From 2019 to 2022, costs per adjusted discharge rose 25%. However, base hospital payment rates for Medicare only increased by 7%, failing to keep pace with input price inflation. As a result, 52% of California's hospitals had negative margins in 2022.

Chronic underfunding by Medicare has contributed to the closure of one hospital in California (Madera Community Hospital) earlier this year, driven another into bankruptcy (Beverly Hospital), and has forced others to reduce or eliminate vital services to ensure they can remain open. Unfortunately, more closures or reductions in services are expected to follow.

It is estimated that 20% of California's hospitals are at risk of closure. Expanding Medicare's site-neutral payment policy will tip these fragile hospitals into financial insolvency and force others to eliminate services. Both outcomes reduce access to care for California's most vulnerable Medicare beneficiaries.

Sincerely,

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Corporate members: Hospital Council – Northern and Central California, Hospital Association of Southern California, and Hospital Association of San Diego and Imperial Counties