

*Submitted Electronically*

September 6, 2013

Marilyn Tavenner  
Administrator  
Centers for Medicare & Medicaid Service  
Hubert H. Humphrey Building  
200 Independence Avenue, S.W., Room 445-G  
Washington, D.C. 20201

***RE: CMS-1600-P, Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule, Clinical Laboratory Fee Schedule & Other Revisions to Part B for CY2014; Proposed Rule (Vol. 78, No. 139), July 19, 2013***

Dear Ms. Tavenner:

The Florida Hospital Association (FHA), on behalf of its 237 hospital and health system members, appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS's) physician fee schedule (PFS) proposed rule for calendar year (CY) 2014. In reviewing the proposed rule, we identified several provisions impacting our rural hospital members. While we support the expanded coverage for telehealth services, we are very concerned with the proposal to apply therapy caps to critical access hospitals (CAHs).

**Application of Therapy Caps to CAHs**

The Middle Class Tax Relief and Job Creation Act of 2012 (MCTRJCA) suspended the exemption under Section 1833(g)(1) of the Social Security Act for outpatient therapy services delivered in a hospital from the cap on outpatient therapy services. Unless Congress acts to extend the provision, the outpatient therapy services delivered in a hospital will no longer be subject to the therapy cap after December 31, 2013. The exemption has long been interpreted as applicable to all hospitals, including CAHs. The MCTRJCA provision that suspended the exemption specifically applied to hospitals paid under the outpatient prospective patient system (PPS); therefore, CMS continued to exempt CAHs from the cap.

CMS now proposes to reverse its longstanding interpretation of existing statute by subjecting CAHs to the therapy cap beginning January 2014. The result of CMS's proposal would be to restrict access to outpatient therapies for rural Medicare beneficiaries and, therefore, the FHA strongly opposes application of the therapy cap to CAHs. If CMS subjects CAHs to the therapy cap, once Medicare beneficiaries who rely on CAHs for outpatient therapies reach the cap, they would be forced to pay for additional therapies out-of-pocket or travel potentially long distances to a PPS hospital to obtain these critical services. We urge CMS to rescind its proposal and continue to exclude CAHs from the outpatient therapy cap, consistent with its longstanding interpretation of existing statute.

According to information developed by the American Hospital Association (AHA), CAHs receive less than five percent of total payments to acute care hospitals, which indicates that expenditures on outpatient therapies provided by CAHs are relatively low. Any savings under the proposal from CMS would be minimal when compared to the issue of beneficiary access.

### **Medicare Telehealth Services**

Under current law, Medicare beneficiaries are eligible for telehealth services only when those services are provided from an originating site located outside of a Metropolitan Statistical Area (MSA) or in a rural Health Professional Shortage Area (HPSA). When the Office of Management and Budget updated the MSAs based on the 2010 census data, the designation of nearly 100 counties changed from rural to urban. Therefore, Medicare beneficiaries who receive care in these newly urban counties are no longer eligible for telehealth services. The FHA appreciates CMS's proposal to modify the geographic criteria for originating site eligibility to define rural HPSAs as those HPSAs located in rural census tracts, as determined by the Office of Rural Health Policy (ORHP). This modification will expand access to health care services for Medicare beneficiaries by allowing some rural areas within MSAs to be eligible for Medicare telehealth services.

We would encourage CMS, however, to use the same definition of a rural HPSA that is used for rural health clinic qualification - a federally designated shortage area or a non-urbanized area, as defined by the U.S. Census Bureau. Without consistency in the definition, there may be existing rural health clinics that would be unable to provide telehealth services to Medicare beneficiaries.

The FHA appreciates the opportunity to provide these comments for consideration in finalizing the PFS final rule for CY2014. If there are any questions, please do not hesitate to contact me at [kathyr@fha.org](mailto:kathyr@fha.org).

Sincerely,



Kathy Reep  
Vice President/Financial Services