



September 27, 2019

Submitted via www.regulations.gov

Mrs. Seema Verma
Administrator
Center for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: CMS-1717-P; 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

Dear Administrator Verma:

Thank you for the opportunity to provide input into the proposed CY 2020 Hospital Outpatient Prospective Payment System (OPPS) rule. We appreciate your continued focus on unnecessary increases in utilization of health care services as a mechanism for addressing rising health care costs.

The Partnership to Empower Physician-Led Care (PEPC) is a membership organization dedicated to supporting value-based care to reduce costs, improve quality, empower patients and physicians, and increase access to care for millions of Americans through a competitive health care provider market. We believe that it is impossible to achieve truly value-based care without a robust independent practice community. Our members include Aledade, American Academy of Family Physicians (AAFP), California Medical Association (CMA), Florida Medical Association, Medical Group Management Association (MGMA), and Texas Medical Association. We also have individual and small medical group supporters across the country, many of whom are independent physicians or practices and wish to remain so.

As an organization, we are dedicated to value-based care as a path to sustainability for independent practice. This includes ensuring that the underlying fee-for-service infrastructure currently serving as the foundation for many value-based care models provides a level playing field for independent physicians. A key part of this is creating an equitable payment structure that reimburses physicians based on the value of the service provided, not the site at which the service is provided.

In our comments on the CY 2019 proposed rule, we strongly supported CMS's proposed method for controlling unnecessary increases in the volume of clinic visits furnished in excepted off-campus provider-based departments by removing the payment differential driving the site-of-service decision. Our anecdotal experience in health care markets across the country validated CMS's concern that the rate of growth in hospital-based E&M visits is attributed to payment incentives, rather than patient acuity or medical necessity. We agreed – and continue to agree – that beneficiaries and the physicians treating them should have their choice of lower-cost sites of service and not be encouraged to receive or provide care in higher paid settings solely for financial reasons.



In light of the recent court decision, we urge CMS to explore regulatory pathways to address site of service payment differentials in a budget neutral manner, which the judge in the U.S. District Court for the District of Columbia indicated would be consistent with the statute. One example could be to prospectively change the manner in which hospitals allocate costs to outpatient cost centers in institutional cost reports, particularly for cost centers where similar services can be provided in physician offices which have no comparable overhead costs.

In the absence of a regulatory solution, we urge CMS to call on Congress to pass legislation to address this issue. The evidence clearly shows that payment differentials based on site of service result in increased cost share and reduced choice for beneficiaries, not to mention increased costs for the health system as a whole. Additionally, payment disparities between sites of service make it difficult for independent physicians to recruit and retain new physicians. It also negatively impacts the ability of independent practices to negotiate with payers, as physician practices purchased by hospitals can get higher payment rates from payers, both from facility fees and from the greater leverage that hospitals have with private payers in negotiating payment rates for their employed physicians. The confluence of these impacts makes it difficult for independent practices to thrive, let alone invest the time and resources needed to successfully transition away from fee-for-service.

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Please do not hesitate to reach out to me if the Partnership to Empower Physician-Led Care can be a resource to you. I can be reached at kristen@physiciansforvalue.org or 202-640-5942.

Sincerely,

Kristen McGovern
Executive Director