



September 17, 2021

*Wayne A. Smith
President & CEO*

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services,
Department of Health and Human Services
Attention: CMS-1753-P
P.O. Box 8010
Baltimore, MD 21244-1850
(Submitted Electronically to <http://www.regulations.gov>)

*Nemours Children's
Hospital, Delaware
Mark Mumford,
Chief Executive,
Nemours Delaware
Valley Operations*

RE: Comments on the OPPTS Proposed Rule, CMS-1753-P

*Bayhealth
Terry Murphy,
President & CEO*

Dear Administrator Brooks-LaSure:

*Beebe Healthcare
David A. Tam,
MD, MBA,
President & CEO*

On behalf of the Delaware Healthcare Association's hospitals and health care delivery systems, we appreciate the opportunity to comment on the Medicare Hospital Outpatient Prospective Payment System (OPPS) proposed rule. While there are several positive aspects of the proposal, we are concerned with the increase in penalties for noncompliance with the price transparency rule as well as the payment cuts to 340B hospitals.

*ChristianaCare
Janice E. Nevin,
MD, MPH
President & CEO*

We appreciate that the proposal rolls back two concerning policies that could have negatively impacted patient safety and quality of care. The first of these proposals would have eliminated the Inpatient Only (IPO) list of medically complex services that Medicare will pay for only when performed in the inpatient setting. The second would have allowed complex procedures to be provided in ambulatory surgical centers (ASCs).

*TidalHealth Nanticoke
Penny Short, MSM, BSN,
RN
President & CEO*

Saint Francis Healthcare

*Wilmington Veterans
Affairs Medical Center
Vincent Kane
Director*

We are concerned with the proposal to increase penalties for noncompliance with the hospital price transparency rule, as much uncertainty remains in the interpretation of the rules. Delaware hospitals are committed to ensuring that patients have access to the financial information they need to make informed decisions about their care, which is why many have dedicated teams to assist patients with questions about costs for certain procedures and services. However, the price transparency requirement, particularly the requirement to disclose negotiated rates, does not achieve the goal of helping patients understand what they can expect to pay out of pocket. Compliance has been challenging for hospitals across the country as some of the data points are virtually impossible to provide. Furthermore, the price transparency requirement went into effect in January 2021, right in the middle of the COVID-19 Pandemic. Instead of working with hospitals to find a workable solution, provide greater clarity, or allow for additional time to ensure adequate resources are available to come into compliance, this rule seeks to further penalize hospitals. We believe this is the wrong approach and urge CMS to abandon this proposal.

*Delaware Healthcare
Association
Wayne A. Smith
President & CEO*

In addition, we have strong concerns with the proposal to continue to cut OPPS payments to 340B hospitals and ask CMS to reverse this policy in the final rule. The 340B program has been critical to helping hospitals stretch scarce federal resources to reach more patients and provide more comprehensive services. Cuts to this program will strain already limited resources, particularly as hospitals continue to face challenges during the COVID-19 pandemic. We urge CMS to reverse these cuts in the final rule.

COVID-19 has impacted some hospital eligibility for the 340B program. The Pandemic overwhelmingly targeted those age 65 and older, the Medicare population. With more Medicare patients and, in some cases, less Medicaid patients, certain hospitals have lost eligibility for 340B drug pricing. With this in mind, we request that CMS revert to the pre-pandemic FY19 cost report to address this issue.

We appreciate the opportunity to share our concerns with the increase in price transparency penalties and the cuts to 340B hospitals found in the OPPS proposed rule. We urge that these two proposals be abandoned in the final rule. Thank you for your consideration of our requests.

Sincerely,



Wayne A. Smith
President & CEO