Delaware Healthcare Association

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The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services,
Department of Health and Human Services
Attention: CMS–1717–P
P.O. Box 8013, Baltimore, MD 21244–1850
Submitted via *http://www.regulations.gov*

RE: Comments on Medicare Hospital Outpatient Prospective Payment System Proposed Rule (CMS–1717–P)

The Delaware Healthcare Association (DHA), representing hospitals and health care delivery systems in Delaware, appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services (CMS) Hospital Outpatient Prospective Payment System (OPPS) rule. DHA opposes the proposed "price transparency" requirements that would have negative consequences on hospitals, patients and health care market competition. DHA also wishes to provide comments in response to the request for information on quality measurement relating to price transparency and on the 340B program.

Price Transparency

Delaware's hospitals are committed to delivering quality, high-value health care. We agree that patients should be given information that enables them to make informed decisions about their health care. For this reason, Delaware hospitals have dedicated teams to assist patients with questions about costs for certain procedures and services.

Unfortunately, the proposed rule takes a different approach, requiring hospitals to publicly post gross charges and "payer-specific negotiated charges" for all items and services and to display negotiated charges and other information for 300 "shoppable" items and services. This requirement would add to patient confusion in the already complex medical billing and reimbursement process, inflict significant administrative costs and burden on hospitals and disrupt negotiations between insurance payers and health care providers. Furthermore, we agree with American Hospital Association's comments in believing the proposal exceeds the Administration's legal authority. We urge CMS to abandon the proposal and instead convene stakeholders to arrive at an approach that better meets patient needs.

The so-called transparency requirement in the proposal is simply the wrong approach to meeting patient needs. As of January 1, 2019, hospitals are already required to make available online a list of the hospital's standard charges. DHA continues to have strong

concerns about this chargemaster requirement as it paints a false and misleading picture of the price for hospital procedures. In reality, the charges listed are not the price that a patient will pay for a service. The new public posting requirements included in the proposed rule would add another layer of confusion intending to simplify what is a complex billing and reimbursement process. Ultimately, patients are looking for information on their out-of-pocket costs, which is different for each patient depending on their insurance plan, the insurance company's contract rate with the hospital, and their particular circumstances (copay, coinsurance, deductible, total annual out-of-pocket limits, etc.).

Furthermore, the disclosure of payer-negotiated charges raises several concerns. In addition to not being a usable data point for patients, the requirement also raises legal questions about exposing sensitive and proprietary contract information. Delaware's hospitals are also diligently working toward value-based payment, and alternative payment models increase the difficulty of capturing payer-negotiated charges for individual services.
The proposed rule also carries significant costs and administrative burden for hospitals and health systems. DHA believes the burden would far exceed CMS's estimate of 12 hours and $1,017.24 per hospital. Many of our hospitals would need to hire additional employees to implement the proposed rule, spending resources that could otherwise be invested caring for patients in our communities.

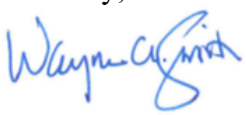
An alternative and more appropriate approach would be for CMS to convene stakeholders, including patients, insurance companies and hospitals in developing price transparency tools that better reflect out-of-pocket costs for patients. For example, Delaware hospitals have supported the establishment of an All Payer Claims Database (the Delaware Health Care Claims Database, or HCCD), administered by the Delaware Health Information Network (DHIN). The HCCD has the potential to serve as an important and sustainable resource for price transparency in our State.

Quality Measurement Relating to Price Transparency
DHA also appreciated CMS' recognition that price information should not be presented without quality information. As CMS considers possible quality measures relating to price transparency, we echo the comments of Nemours Children's Health System in the need for separate measures for adult and children's hospitals. As stated in their comments, there is a smaller sample size in child health that makes it difficult to detect quality differences.

340B Program
CMS requests comments on a remedy for the CY2018 and 2019 rate reductions to 340B program participants and how to structure the 340B program reimbursements to participating providers in CY20. All adult general acute care 340B participating hospitals in Delaware have joined the American Hospital Association's 340B Pledge, committing to annual disclosure of estimated 340B savings and pledging to ensure reinvestment of 340B savings into the patients and the community that we serve. DHA echoes the comments of Christiana Care Health System in requesting that CMS recalculate 340B payments and return to the statutory rate of average sales price (ASP) plus 6 percent provided by the 2017 payment structure, beginning January 1, 2020. DHA also urges CMS to consider the remedy for CY 2018 and 2019 CCHS proposes in their comments.

Thank you for the opportunity to comment on the proposed OPPS rule. In sum, CMS's proposed approach would not give patients the information they need to make informed health decisions, disrupts important negotiations between payers and providers and moves us further away from the achieving value-based care. Instead, the proposal would negatively impact hospitals and create significant administrative burden to implement. DHA urges CMS to abandon the proposed rule and convene stakeholders to arrive at a solution that better meets patient needs. At a minimum, CMS should consider delaying the effective date until January 2021 to allow adequate time for implementation.

Sincerely,



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