September 11, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: CMS-1786-P; Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Payment for Intensive Outpatient Services in Rural Health Clinics, Federally Qualified Health Centers, and Opioid Treatment Programs; Hospital Price Transparency; Changes to Community Mental Health Centers Conditions of Participation, Proposed Changes to the Inpatient Prospective Payment System Medicare Code Editor; Rural Emergency Hospital Conditions of Participation Technical Correction.

Submitted electronically via regulations.gov at https://www.regulations.gov/commenton/CMS-2023-0120-0002

Dear Administrator Brooks-LaSure,

On behalf of the Louisiana Rural Health Association (LRHA), thank you for the opportunity to offer comments on the Centers for Medicare and Medicaid Services (CMS) proposed rule for the calendar year (CY) 2024 Medicare Hospital Outpatient Prospective Payment System.

LRHA is a membership association that is made up of Louisiana rural health care providers. This includes rural health clinics (RHCs); federally qualified health centers (FQHCs); and rural hospitals across the state. LRHA works to provide a unified voice that promotes and enhances the quality of rural health in Louisiana.

LRHA appreciates the opportunity to provide input on behalf the needs of rural patients and providers in Louisiana, and we look forward to our continued collaboration to improve health care access throughout rural America. In addition to reviewing our comments, we encourage you to review the comments submitted by our national partner, the National Rural Health Association (NRHA).

II. Proposed Updates Affecting OPPS Payments.

B. Proposed Conversion Factor Update.

LRHA thanks CMS for its 2.8% payment update relative to CY 2023. **We are pleased that rural hospitals across the board will see an estimated 4.4% increase.** However, we continue to be concerned about the discrepancy between Medicare payment rates and actual inflation. Compounding CMS' underpayment, rural hospitals and health systems also face labor and supply cost pressures and workforce shortages. The projections that CMS uses for updating payment rates have recently been lower than actual inflation due to the use of historical data, leading to inadequate payment updates. In general, hospital inflation lags behind economy-wide inflation, so the 9 – 10% inflation rates that the country saw last summer are likely now affecting hospitals.[1]

[1] https://www.healthsystemtracker.org/brief/how-does-medical-inflation-compare-to-inflation-in-the-rest-of-the-economy/

It is critical that CMS explores how it can accurately pay rural hospitals by accounting for inflation and historical underpayment. We urge CMS to finalize higher payment rates for CY 2024 to help sustain access to care in our rural community.

VII. Proposed OPPS Payment for Hospital Outpatient Visits.

In last year's OPPS rulemaking cycle, CMS finalized a policy to exempt provider-based departments of rural sole community hospitals from site-neutral payment policies. LRHA supports CMS' proposal to continue this policy. **We also ask that CMS consider exempting small rural hospitals with less than 100 beds, Medicare Dependent Hospitals, and Low-Volume Hospitals in a future rulemaking cycle.** The same reasoning that led CMS to propose to exempt SCHs also applies to all small rural hospitals. Factors other than the payment differential can be attributed to the volume of services in provider-based clinics at rural hospitals.

VIII. Payment for Partial Hospitalization and Intensive Outpatient Services.
B. Intensive Outpatient Program Services.

CMS is proposing to implement the new Intensive Outpatient Program (IOP) benefit that Congress created in the Consolidated Appropriations Act (CAA) of 2023. We commend CMS for its work implementing this program as it will serve as an important gap filler for the behavioral health needs of rural beneficiaries. We are pleased to see that rural health clinics, critical access hospitals, and federally qualified health centers (FQHCs) are eligible to furnish IOP services, hopefully increasing rural uptake of this program.

D. Proposed Payment Rate Methodology for PHP and IOP.

CMS proposes to pay hospital-based IOPs $284 for three or fewer services and $368.18 for four or more services. RHCs would be paid at the three or fewer services rate of $284. LRHA supports CMS' calculation of the IOP payment methodology. **However, we ask that CMS apply the hospital-based IOP rate for four-service days to RHCs to account for any variations in the cost of furnishing these services in RHCs compared to other settings and geographic areas.**

X. Proposed Nonrecurring Policy Changes.
A. Supervision by Nurse Practitioners, Physician Assistants, and Clinical Nurse Specialists of Cardiac Rehabilitation (CR), Intensive Cardiac Rehabilitation (ICR), and Pulmonary Rehabilitation (PR) Services Furnished to Hospital Outpatients.

LRHA thanks CMS for its policies on non-physician practitioners (NPPs) and CR, IR, and PR services. NPPs are integral to rural health care delivery and should be able to practice to the fullest extent of their license and training. Additionally, we appreciate the extension to allow virtual presence via telehealth to meet the definition of direct supervision through 2024.

B. Payment for Intensive Cardiac Rehabilitation Services (ICR) Provided by an Off-Campus, Non-Excepted Provider Based Department (PBD) of a Hospital.

LRHA is pleased to see that CMS will pay the full OPPS rate for ICR services at non-exempted off-campus PBDs. However, in the future, we urge CMS to consider exempting all rural hospitals, not just sole community hospitals, from site neutral payment policies.

XVIII. Proposed Updates to Requirements for Hospitals To Make Public a List of Their Standard Charges.

B. Proposal To Modify the Requirements for Making Public Hospital Standard Charges at 45 CFR 180.50

LRHA has concerns about rural hospitals having capacity to meet new hospital price transparency (HPT) requirements, including new required data elements for the machine-readable file (MRF)**.** Rural hospitals continue to struggle with dedicating staff and resources to complying with existing HPT regulations and **we oppose further additions to HPT regulations that will be burdensome for our hospital.**

CMS is proposing to mandate the use of a CMS-developed template for hospitals' machine-readable files. Our rural hospitals have already made strides in complying with current MRF requirements. Using a new mandated template will require extra work for hospitals that are already short-staffed. We oppose this proposal and ask that CMS does not finalize this requirement.

Alternatively, **if CMS moves forward with the new data elements and template, we urge them to extend the grace period from 60 days to 120 days after the effective date of this rule**, January 1, 2024. Our hospitals would appreciate the additional time to comply.

Conclusion

LRHA is thankful for the opportunity to provide input on this proposed rule. If you would like additional information, please contact Denaé Hebert at dhebert@lrha.org or 337.366.5915.

Sincerely,

Denaé M. Hebert
Executive Director
Louisiana Rural Health Association