

WISCONSIN HOSPITAL ASSOCIATION, INC.

January 10, 2012

Glenn M. Hackbarth, J.D.
64275 Hunnell Road
Bend, OR 97701



Dear Mr. Hackbarth:

The Medicare Payment Advisory Commission (MedPAC) recently discussed Medicare payment rate differences between hospital outpatient departments (HOPDs) and freestanding physician offices. In particular, MedPAC is considering a policy option to equalize Medicare payment rates for evaluation and management (E/M) services between HOPD and physician office settings. Although at first glance this proposal appears to create equity in reimbursement between services provided in a physician office and in a hospital setting, such a proposal is inequitable and would substantially reduce Medicare payments to hospitals for outpatient services. **WHA strongly opposes this proposal.**

Fundamentally, E/M services provided by a physician in an office setting differ from those same services provided in a hospital setting for a variety of reasons. **The hospital outpatient setting is the most appropriate setting for many patients, and hospital reimbursement should reflect the underlying costs for treating these patients.** Costs in a hospital differ from costs for a physician office for very important patient safety and treatment reasons.

- **Hospitals treat higher risk patients.** Patients treated in HOPDs that receive an E/M services also undergo more complex procedures and have more comorbidities and complications as compared to those treated in physician offices. Hospitals are better equipped to handle such complications. Moreover, the procedures proposed by MedPAC are often provided in conjunction with other procedures including surgeries and diagnostic tests which are most appropriately handled in the hospital.
- **Hospitals bundle other services in the E/M payment.** Medicare packaging rules differ between hospitals and physician offices. Thus, although physician payments in the office setting appear less costly, the hospital payment routinely includes in the E/M payment other supplies and services such as lower-cost drugs, image processing, and contract media and observation.
- **Under CMS policy, E/M codes for hospitals are defined differently than physician E/M codes.** As a result, use of a particular CPT code across settings does not mean the same intensity or service level is delivered. In addition, the E/M code billed by the hospital is often different than the E/M code billed by the physician for the same patient, because of the different resources used and different definitions.

Hospital payment rates should reflect the actual cost to hospitals. These costs include compliance with more comprehensive licensing, accreditation and regulatory requirements as compared to physician offices. These costs also include providing care in hospital settings that are open 24 hours per day, every day of the year. Many of these standards and requirements for hospitals are not required of physician offices.

As MedPAC continues its deliberations on this topic, we encourage you also to consider the effect of this policy on the overall outpatient payment system. Capping E/M payment in the way proposed would lead to significant distortions in outpatient ambulatory payment classification relative weights due to artificial caps do not reflect actual hospital costs.

Finally, it is important to note that hospitals already lose money treating Medicare patients in the outpatient setting. According to the June 2011 MedPAC Databook, Medicare margins are a negative 10.8 percent for outpatient services. Distortions of Medicare payments as proposed under this policy will only further this gap.

The proposal is estimated to cost Wisconsin hospitals \$410.9 million over 10 years, and comes on top of significant cuts to hospitals required by the Patient Protection and Affordable Care Act. Reimbursement policies must reflect reasonable costs and be adequate to ensure continued care for Medicare beneficiaries. The proposed policy does neither, and threatens access to critical hospital services. We urge you to reconsider this proposal and maintain the current reimbursement structure for E/M services.

Thank you for your consideration. If you have any questions, please contact Joanne Alig, Vice President, Payment Policy & Reform, at 608-274-1820, or jalig@wha.org.

Sincerely,



Stephen F. Brenton
President

CC: Herb Kuhn, Missouri Hospital Association