

Congress of the United States

WASHINGTON, DC 20510

September 28, 2018

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, DC 20201

Dear Administrator Verma:

We are writing with concerns over the proposed 2019 OPPI rule and its proposal to reduce payments for Evaluation and Management services provided in previously excepted off-campus provider-based departments of a hospital (PBD's), sometimes referred to as "site-neutral" payments. As you know, Section 603 of the Bipartisan Budget Act of 2015 specifically exempted PBDs in operation prior to November 2, 2015, from site-neutral payment provisions. Additionally, the 21st Century Cures Act, which was signed into law in December of 2016, exempted facilities that were in mid-build from site-neutral provisions. In both instances, Congress received input that changing the rules mid-stream for existing facilities would be unfair for hospitals that had planned their budgets and future operations based on the current payment rules.

While we understand CMS is now citing "unnecessary" increases in the volume of clinic visits in hospital PBDs to justify this proposal, we have concerns that the proposal is in conflict with both acts previously passed by Congress. Furthermore, we have heard concerns from Wisconsin's hospital leaders, who expect this proposal to impact about 40 hospitals, reducing payments by about \$30 million next year alone, with the impact rising to approximately \$440 million over the next 10 years. Most of these hospitals are safety net organizations that have made substantial investments to meet the needs of their unique patient populations and local communities.

Though we recognize CMS's desire to control costs in the Medicare program and copays for Medicare beneficiaries, we also recognize CMS can work with the hospital industry to find alternative solutions. For instance, CMS has done an exemplary job reaching out to hospitals in its "Patients Over Paperwork" initiative designed to explore outdated and unnecessary rules and regulations, and we believe a similar process focused on reforming Medicare's payment system could present positive solutions.

As you likely know, Wisconsin has a national reputation for being among the top states in the country for healthcare quality while also being in the lower range of states in what CMS spends per Medicare beneficiary, according to 2014 data from the Kaiser Family Foundation. We believe part of the reason for this high quality, high value reputation is due to the highly integrated nature of much of our state's healthcare infrastructure. We urge CMS to focus its efforts to control costs and reform Medicare's antiquated payment system by rewarding, rather than penalizing, states like Wisconsin that have high marks on quality and value.

In closing, we ask CMS to respect the clear language of the Bipartisan Budget Act of 2015 and 21st Century Cures Act, which included provisions to grandfather certain provider-based clinics. Further, CMS should work with hospitals on alternative approaches that protect Medicare and its members while ensuring that any future proposals give hospitals adequate time to plan for budgetary impacts.


Sincerely,



Ron Johnson
United States Senator



Tammy Baldwin
United States Senator



Mike Gallagher
Member of Congress



Glenn Grothman
Member of Congress



Mark Pocan
Member of Congress



Ron Kind
Member of Congress



Gwen Moore
Member of Congress