September 24, 2018

Ms. Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

Re: CMS-1695-P Proposed Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs

Dear Administrator Verma:

The Physicians Advocacy Institute (PAI) appreciates the opportunity to provide input on the Centers for Medicare and Medicaid Services’ (CMS’) Proposed Rule 1695-P ("proposed OPPS payment rule"), relating to payment for hospital outpatient prospective payment (OPPS) and ambulatory surgical center payment systems.

PAI is a not-for-profit organization whose Board of Directors is comprised of CEOs and former CEOs from nine state medical associations: California Medical Association, Connecticut State Medical Society, Medical Association of Georgia, Nebraska Medical Association, Medical Society of the State of New York, North Carolina Medical Society, South Carolina Medical Association, Tennessee Medical Association, and Texas Medical Association, and a physician member from Kentucky. PAI’s mission is to advance fair and transparent policies in the health care system to sustain the profession of medicine for the benefit of patients.

PAI and its affiliated state medical associations represent physicians across the nation and are committed to addressing the serious challenges facing physician practices in today’s environment. We believe that patients benefit from a competitive health care system that supports a variety of physician practice settings, including independent practices. We are very concerned that consolidation across the health care sector has led to a steep decline in independent medical practices, with negative implications for continuity of patient care, quality, cost and innovation in the health care system.
PAI Supports Site Neutral Payment Policies in 2019 Proposed OPPS Payment Rule
PAI supports CMS efforts to adopt site-neutral payment policies that help promote a more efficient, competitive market for many health care services. We believe these policies will increase the ability of independent physicians to deliver care to patients in more convenient and lower-cost alternative settings that reflect their choices.\(^1\) PAI fully supports CMS’ stated goal of moving towards site-neutral Medicare payment policies for services that can be safely and effectively provided in a variety of practice settings, including traditional “clinic visits.” PAI agrees that a patient-centered health system requires payment policies that do not artificially favor one service setting over another.

Given that shared perspective on improving the health system, PAI supports CMS’ proposed payment modification in the proposed OPPS payment rule that would apply the site-specific physician fee schedule (PFS) payment rate for a billed clinic visit service provided at “excepted” Off-Campus Provider Based Departments (OC-PBD). According to CMS, this proposal would save the program $610 million and beneficiaries $150 million.

PAI also supports the proposed OPPS payment rule’s provision that eliminates the incentive for OC-PDBs to expand service lines beyond those currently performed at the site. Eliminating payment incentives for OC-PDBs that expand to new services lines under the Medicare PFS is a significant step to closing a potential loophole as CMS continues efforts to transition to site-neutral payment policies.

More broadly, PAI supports policies that help reverse Medicare payment disparities that have created a strong financial incentive for hospitals to build and acquire off-campus satellite offices to offer services traditionally provided in the physician office setting. PAI urges CMS to continue to consider policies to extend site-neutral payments for Medicare services when there is no compelling reason for a higher payment rate, or when utilization trends indicate that certain entities are using the higher facility rates to maximize revenues.

PAI Research Supports Site Neutrality for Medicare Payments
PAI asked The Moran Company to analyze the trend in Medicare utilization of OC-PBDs. After analyzing 2017 OPPS data, several findings were of interest:

- The top 100 billers of off-campus department services bill more than 50% of the total amount paid to hospitals through off-campus departments, suggesting the approach is a specific strategy for certain hospitals.
- OC-PBD payments under OPPS grew by 12% from 2016-2017, outstripping other OPPS growth, and representing 11% of OPPS payments in 2017.

\(^1\) PAI believes that the Medicare program’s “site of service” payment differential, which involves higher payment rates for services delivered in a hospital-owned setting as compared to the physician office setting, has contributed to the sharp trend of “vertical” integration in the health care sector. These payment incentives have spurred hospitals to acquire physician practices and/or employ greater numbers of physicians to maximize revenues for services that would have been performed in the physician office setting.
PAI partnered with Avalere to study various marketplace trends that impact physicians and their patients, including the extent and impact of the shift towards hospital acquisitions of physician practices and hospital and health system employment of physicians. These policies have contributed to a sharp decline in the number of independent physician practices and have significant cost implications to Medicare and its beneficiaries as well as financial implications for commercial insurers, employers and consumers. These studies’ findings underscore the importance of adopting site-neutral payment policies, including those advanced in the proposed OPPS payment rule.

Key Findings of PAI-Avalere Research entitled “Hospital Acquisitions of Physician Practices and Physician Employment”
This study examined the trend of hospitals acquiring physician practices and the rate of physician employment by hospitals and health systems between 2012-2015, updated to include 2016 data. This research shows that the pace of this shift is remarkable and has significant implications for the profession of medicine, for patients and for payers including that:

- Between 2012-2016, hospitals acquired 36,000 physician practices, leading to a doubling (a 100% increase) of hospital-owned practices over the four-year period.
- During this same period, the rate of physician employment by hospital or health systems grew dramatically – rising from 26% in 2012 to 42% in 2016. During this period, over 40,000 physicians shifted to employment.
- These trends were seen in every region of the country.

Key Findings of PAI-Avalere Health Study entitled “Implications of Hospital Employment of Physicians on Medicare and Beneficiaries”
This study examined how the growth of hospital employment of physicians impacts spending by Medicare and Medicare beneficiaries. Avalere researchers focused on the cost implications of having four specific Medicare-covered services (colonoscopy, arthrocentesis, echocardiogram and diagnostic cardiac catheterization) delivered by employed physicians, rather than independent physicians. The research found that:

- Hospital physicians perform a greater portion of services in the higher reimbursed hospital outpatient department (HOPD) settings than independent physicians;
- Over the three-year period studied, there was $3.1 billion more in spending than if the services would have been provided by independent physicians;
- Medicare program spending was $2.7 billion more for these services;
- Medicare beneficiaries faced $411 million more in financial responsibility for these services; and
- The impact of the increased costs varied by procedure, with the greatest impact associated with diagnostic cardiac catheterizations ($994 additional spending for Medicare per episode of care).

Key Findings of PAI-Avalere Health Research: “Medicare Payment Differentials Across Outpatient Settings of Care” (2016)
This initial PAI-Avalere study expanded on existing research that documented the additional Medicare spending for the same services delivered in various settings, including the hospital outpatient department, ambulatory surgery center, and physician office settings. The study considered spending over a full 22-day “episode of care” (including both preparatory and follow-up care) for three common procedures (echocardiograms, colonoscopies, and evaluation and management (E&M) services) which are routinely performed in each type of setting.

This study confirmed that in many situations, the physician office setting is the most cost-effective setting for patients. Even after adjusting for risk factors, the study showed that for all three types of services, Medicare spends more when patients receive services in a HOPD instead of a physician office. Key findings:

- Medicare payments for echocardiograms averaged $5,148 when provided in HOPDs, versus $2,862 when provided in a physician’s office.
- Episode of care payments for colonoscopies and related services for Medicare patients are nearly 35% more when performed in HOPDs instead of physician offices.
- The episode of care payments for E&M services for new patients were 29% more when delivered at HOPDs than if delivered in physician offices.

PAI applauds CMS’ commitment to policies that promote a more competitive, patient-centered health care marketplace, which will both increase efficiencies of service provision and reduce the cost of these services over time. The proposed OPPS rule helps to achieve that goal by establishing greater parity in payment rates for Medicare services that are safely delivered in a variety of practice settings.

If you have any questions, please contact me at k2strategiesllc@gmail.com.

Sincerely,

Kelly C. Kenney
CEO, Physicians Advocacy Institute