



Arizona Hospital and Healthcare Association

August 26, 2008

Mr. Kerry Weems
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1404-P
Mailstop: C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Medicare Outpatient Prospective Payment System (OPPS) and Ambulatory Surgery Center (ACS) Proposed Rule for 2009

Dear Mr. Weems:

On behalf of the Arizona Hospital and Healthcare Association (AZHHA), thank you for the opportunity to comment on the Centers for Medicare and Medicaid Services (CMS) CY 2009 Medicare OPPS and ASC proposed rule. We submit the following comments and recommendations for your consideration.

2009 Quality Reporting

In 2009, Medicare payments for outpatient services for the first time are being linked to reporting for certain quality measures, including perioperative surgical care and care for heart attack patients who are transferred for services. Hospitals that fail to meet these reporting requirements receive a two percent reduction in their payment update. We continue to have concerns that these initial measures were not fully field tested, and as a result reported data is insufficient to fully assess quality performance.

By way of example, take surgical care. Hospitals often use modifier codes to identify situations when a patient's surgery is cancelled, such as when a patient's vital signs are unstable. In these instances, the hospital would submit a modifier on its Medicare bill to identify the surgery as not completed. According to the current quality reporting requirements, hospitals may not submit modifier codes in defining their patient populations. The result is patients with cancelled surgeries are grouped into the surgical measures' denominator population, even though the hospital likely (and appropriately) did not administer prophylactic antibiotics. A hospital that does not include these patients in their population would be considered non-compliant, yet a

hospital that includes such patients may have a lower performance rate because the patients did not, and should not have, received antibiotics. If the measures had been fully field tested, this flaw and others would have been identified and could have been corrected. **We urge CMS to provide immediate funding to fully field test the surgical care and heart attack transfer patient care measures to identify operational issues and evaluate the degree to which the measures can be corrected before data validation on these measures commences.**

2010 Quality Reporting

CMS proposes four additional quality measures of medical imaging efficiency that hospitals would be required to publicly report in order to receive the full payment update for 2010. The measures chosen by CMS have not been endorsed by the National Quality Forum (NQF) nor adopted by the Hospital Quality Alliance (HQA). We strongly believe that all measures added to the outpatient reporting program should be first vetted through the rigorous, consensus-based assessment processes of both the NQF and the HQA.

Because the measures were in the early stages of the NQF process when CMS released the proposed OPSS rule, there was no information publicly available on detailed specifications of the measures, which is necessary for the public to fully understand what is being proposed. While past proposed regulations have not always contain detailed information on quality reporting measures, other information was publicly available at the time the rule was proposed in order that interested parties could understand the measures and enable them to provide informed comments to CMS. For these imaging efficiency measures, no such information existed in the public domain at the time CMS released the proposed rule. This process is unacceptable, as it does not allow for informed exchange of information and public input.

We urge CMS to hold these measures until such time as (1) the NQF has fully evaluated and endorsed the measures, (2) the HQA has adopted the measures, (3) CMS has fully field tested of the measures, and (4) the public has been provided notice of the measures in a manner that permits informed comment.

Process for Updating Measures

CMS proposes to establish a sub-regulatory process for updating technical specifications used to calculate quality measures when scientific or consensus standards change. AzHHA opposes this proposal. While it may be necessary at times to temporarily suspend measure reporting due to a change in science or an implementation issue, all permanent changes to revise existing measures should be made through the regulatory process to allow for public input. **We urge CMS to**

ensure all changes to existing measures be made through the regulatory process, which allows for public comment.

Healthcare-Associated Conditions

CMS is requesting comments on whether and how the Medicare inpatient PPS policy of not paying more for preventable healthcare-acquired conditions (HAC) could be applied to the hospital outpatient setting. Before entertaining the idea of expanding this proposal to outpatient departments, CMS should fully examine the effects of the policy on the inpatient hospital setting. In particular, CMS should evaluate any unintended consequences, including potential increases in unnecessary and expensive diagnostic testing.

Moreover, differences between the outpatient and inpatient setting make application of the current policy to the outpatient setting problematic. For example, many lab tests necessary for documenting present on admission status could not be conducted within the time frame of an emergency department visit. Payment in the outpatient setting is based on the types of services provided, and is not severity-based as in the inpatient setting. **We urge CMS to fully analyze the effects of the current inpatient HAC policy before proposing expansion to the outpatient setting. Before developing any expansion plan, CMS should convene an advisory panel of independent clinicians and scientists – including researchers and those actively providing patient care – to provide guidance on the plan.**

Thank you again for the opportunity to comment on the proposed rule. If you have any questions or would like further information regarding our comments, please call me.

Sincerely,

Adda Alexander, RN MBA
Executive Vice President