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September 11, 2017

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

Re: CMS–1678–P, Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Proposed Rule (Vol. 82, No. 138), July 20, 2017.

Dear Ms. Verma:

South Dakota Association of Healthcare Organizations (SDAHO) represents hospitals, health systems and post-acute care providers across South Dakota, we appreciate the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) hospital outpatient prospective payment system (OPPS) proposed rule for calendar year (CY) 2018.

CMS'S PROPOSED MEDICARE PART B PAYMENT FOR 340B HOSPITALS

SDAHO opposes CMS's proposal to reduce Medicare Part B payments for drugs acquired through the 340B Drug Pricing Program. SDAHO urges the agency to withdraw its proposal for the following reasons:

- According to estimates by the American Hospital Association (AHA), CMS's proposal would reduce drug payments to 340B hospitals by \$1.65 billion.
 - CMS lacks the statutory authority to impose a Medicare Part B payment rate for 340B drugs that results in such a dramatic payment reduction that it effectively eliminates the benefits of the 340B program.
 - Payment cuts of this magnitude would undermine 340B hospitals' ability to continue programs designed to improve access to services, which is the very goal of the 340B program that Congress intended.
- Rather than addressing the issue of the high cost of pharmaceuticals, this proposal targets 340B hospitals serving vulnerable patients, including those in rural areas.

-South Dakota hospitals overall have a negative Medicare margin of -5.5%. CMS's proposed cuts would make South Dakota hospitals' financial situations even more, vulnerable thus putting at risk the programs they have developed to expand access to care for their patient populations.

CMS'S PROPOSED MODIFIER FOR NON-340B DRUGS

CMS would require hospitals to report a modifier on the Medicare claim, in order to identify which drugs are 340B and which are non-340B, implementing CMS's proposed modifier would be administratively burdensome.

CMS's approach is the exact opposite of how a number of state Medicaid agencies like South Dakota administer their Medicaid rebate programs to prevent duplicate discounts on 340B drugs. To accurately collect rebates, some state Medicaid agencies identify 340B drugs with a modifier or their National Drug Code (NDC) code so that if the modifier or NDC code is not on the claim, the drug is eligible for a Medicaid rebate. CMS's proposal is the exact opposite, and it will add confusion and complexity to an already complicated system.

SDAHO has significant concerns about whether hospitals can possibly implement CMS's proposed modifier accurately- it would be difficult in mixed-use areas, such as emergency departments, catheterization laboratories and pharmacies, where both 340B eligible patients and non-340B patients are served.

SDAHO believes that CMS's proposed reduction in Medicare Part B payments for 340B drugs will put significant financial pressure on our organizations, negatively impacting our ability to provide high-quality care to our beneficiaries and communities. SDAHO urges CMS to abandon the 340B drug payment proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "S.A. Duke". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Scott A. Duke
President/CEO