March 12, 2018

Tom Newton
Vice President, Network Engagement
Wellmark Blue Cross & Blue Shield
1331 Grand Ave, Des Moines, IA 50309

Dear Mr. Newton:

On behalf of the Iowa Hospital Association (IHA) and the South Dakota Association of Healthcare Organizations (SDAHO), we are writing to share concerns regarding Wellmark's recent request that hospitals in Iowa and South Dakota provide additional information related to utilization in Medicare's new 340B payment policy that takes effect on April 1, 2018.

Overall, we oppose this policy because 1) the overall objectives of the data collection effort are unclear; 2) hospitals, in particular Critical Access Hospitals (CAHs), are not prepared to report this information without significant modifications to claims and billing systems; and 3) litigation surrounding the recent federal regulatory changes to the 340B program remains pending.

Wellmark's objective of aligning with Medicare policy is unclear. Through the 340B program, pharmaceutical manufacturers sell drugs used in outpatient settings at discounted prices to hospitals and other entities that care for uninsured and low-income patients. Hospitals reinvest 340B savings for a wide range of purposes, including providing low-cost or free prescriptions for uninsured and low-income populations, expanding services offered to patients and providing services to more patients.

Participating 340B hospitals have demonstrated to the U.S. Department of Health and Human Services (HHS) that they care for a disproportionate share of low-income and Medicaid-insured patients or are a critical access or sole community hospital in an isolated, rural area. Participating hospitals must recertify their eligibility annually and meet numerous program integrity requirements.

We see no reason as to how the collection of this information would be of value to Wellmark, the 340B program or its participants. Further, questions remain surrounding contractual requirements that may need to be amended in order to authorize the collection of this data from hospitals.

Not all hospitals are required to submit 340B modifiers. Wellmark indicates that the intent of this policy is to align with Medicare regarding 340B. However, CAHs are **not subject** to the 340B payment policy requirements as they are not paid under the Medicare Outpatient Prospective Payment System. Therefore, neither modifier "JG" nor modifier "TB" are currently required to be reported by CAHs.

To require CAHs to report this information would be a policy that is more stringent than Medicare and would add regulatory burden and require unnecessary information systems process and billing changes that will not be possible to complete by April 1, 2018.

Further alignment with Medicare's 340B payment policy is still unresolved. IHA and SDAHO joined 32 other state hospital associations in filing an amicus brief in the suit, *The American Hospital Association, et al. v. Eric D. Hargan*. IHA and SDAHO joined the amicus on the grounds that the final rule violates the law and, therefore, should be set aside under the Administrative Procedure Act as unlawful and exceeding the statutory authority of HHS.

IHA and SDAHO hospitals support H.R. 4392, a bi-partisan bill with 189 cosponsors, preventing CMS from implementing the OPPS Final Rule governing Medicare 340B.

Finally, we have several questions surrounding Wellmark's intentions regarding use of the information being sought and the potential impact on future hospital reimbursement. Until these issues are resolved, we cannot support this policy and request that it be rescinded.

IHA and SDAHO would appreciate the opportunity to discuss this issue further at your earliest convenience.

Sincerely,

Daniel C. Royer
Vice President, Finance Policy
Iowa Hospital Association

Gilbert Johnson
Vice President, Business Development
South Dakota Association of Healthcare Organizations