September 5, 2022

The Honorable Chiquita Brooks-LaSure

Administrator

Centers for Medicare and Medicaid Services

7500 Security Boulevard

Baltimore, MD 21244

**RE:** **CMS-1793-P**; Medicare Program; Hospital Outpatient Prospective Payment System: Remedy for the 340B-Acquired Drug Payment Policy for Calendar Years 2018–2022.

***Submitted electronically via regulations.gov.***

Dear Administrator Brooks-LaSure,

[YOUR ORGANIZATION] is pleased to offer comments on the Centers for Medicare and Medicaid Services (CMS) proposed rule to remedy the 340B-acquired drug payment policy in place during calendar years (CYs) 2018 – 2022. We appreciate CMS’ continued commitment to the needs of the more than 60 million Americans that reside in rural areas.

[Brief paragraph describing your hospital and the impact of this proposal.]

We thank CMS for the opportunity to comment on this proposed rule.

**II. Proposal to Remedy Payment Adjustment for 340B-Acquired Drugs From CY 2018 Through September 27th of CY 2022.**

B. Proposed Remedy.

*1. Proposed Methodology for Calculating and Process for Remitting Remedy Payments to Affected 340B Covered Entity Hospitals for 340B Acquired Drugs Furnished and Paid Adjusted Amounts Under the OPPS in CY 2018 Through September 27th of CY 2022.*

[YOUR ORGANIZATION] thanks CMS for its consideration of the potential remedies discussed in subsection A. **We support the decision to provide hospitals that were impacted by the unlawful policy with one-time lump sum payments.** Approximately 325 rural OPPS hospitals, including [YOUR HOSPITAL], will receive the amount that they were owed for 340B-acquired drugs while CMS’ policy was in place. **We agree with CMS’ calculation of the amounts owed to affected hospitals.** The difference between what our facility should have been reimbursed and what we were actually paid from CY 2018 to September 27, 2022, will provide needed support for our hospital. [Include statement on how much your hospital will receive and the impact of the correct payment and its potential impact (as relevant)].

*2. OPPS Non-Drug Item and Service Payments From CY 2018 Through CY 2022.*

[YOUR ORGANIZATION] opposes CMS’ proposal to prospectively adjust payments downward for all OPPS hospitals. **We urge CMS to exclude all rural hospitals from its proposal to adjust the conversion factor by -0.5% for the next 16 years.** We appreciate CMS’ recognition of rural hospitals in the proposed rule by stating that the 0.5% decrease spread out over a number of years will not be “overly financially burdensome on impacted entities, especially those in rural communities.” However, **we strongly disagree with any cuts to rural hospitals given their current financial status and do not believe that CMS accurately evaluated the impact on rural hospitals.**

**Rural safety net hospitals are not in a position to receive cuts to Medicare reimbursement. Since 2010, 152 rural hospitals have closed, the majority of which were PPS hospitals.**[[1]](#footnote-1)Estimates show that 450 additional hospitals are vulnerable to closure.[[2]](#footnote-2) [Transition to specifics about your hospital – discuss how decreased payments will affect your hospital. For example, what are your typical operating margins? How do inadequate Medicare payments affect you? Emphasize how you provide critical services to your rural patient population and cannot sustain further payment reductions. If possible, project how much your hospital would lose under this proposed policy.]

[If your hospital will receive a lump sum payment, add a paragraph discussing how this payment is diminished due to the accompanying payment reductions.]

Additionally, since July 2022, our hospital has been grappling with reinstatement of Medicare sequestration cuts on top of already inadequate Medicare reimbursement rates. Sequestration results in hospitals receiving a 2% decrease in reimbursement for each Medicare payment received. [Add information about impact of this on your hospital and any other Medicare payment concerns.]

CMS’ proposal to adjust payments downward cannot be viewed in isolation. Other payment policies and the reality of operating a rural hospital in the post-pandemic world make this proposed policy untenable for rural hospitals. **CMS must consider carving rural hospitals out of the proposed downward adjustment.**

Thank you again for the chance to offer comments on this proposed rule and for your consideration of our comments. If you would like additional information, please contact [YOUR NAME OR OTHER REPRESENTATIVE] at [EMAIL] or [PHONE NUMBER].

Sincerely,

[E-SIGNATURE]

Your Name

Your Title (if applicable)

Your Organization

1. Rural Hospital Closures, N.C. Rural Health Research Center, Cecil G. Sheps Center for Health Services Research, University of North Carolina at Chapel Hill <https://www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures/> (this number includes hospitals that converted to another hospital type, such as the Rural Emergency Hospital designation or otherwise ceased inpatient services). [↑](#footnote-ref-1)
2. Michael Topchik, et al., *Rural Health Safety Net Under Renewed Pressure as Pandemic Fades*, The Chartis Center for Rural Health (2023), 1 <https://www.chartis.com/insights/rural-health-safety-net-under-renewed-pressure-pandemic-fades>. [↑](#footnote-ref-2)