DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

OCT 01 2004

Mr. Richard Davidson
President
American Hospital Association
One North Franklin
Chicago, Illinois 60606

Dear Mr. Davidson:

Thank you for your interest and your constructive suggestions on our efforts to implement Section 1011 (Federal Reimbursement of Emergency Health Services Furnished to Undocumented Aliens) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with the goal of providing substantial new assistance to hospitals, physicians, and other providers of emergency services to undocumented immigrants and other specified aliens.

As you know, Section 1011 provides $250 million per year for fiscal years 2005-2008 to reimburse eligible providers for emergency health services for emergency care. Undocumented aliens' use of medical services is a significant public health issue for hospitals, doctors, and ambulance providers, particularly those located along the U.S.-Mexico border. As required by the Emergency Medical Treatment and Labor Act (EMTALA), hospitals participating in Medicare must medically screen all persons seeking care in hospital emergency departments, and provide the treatment necessary to stabilize those determined to have an emergency condition, regardless of income, insurance, or immigration status. In providing the medical screening and treatment for emergency services for undocumented and certain other aliens, health care providers currently must absorb the costs of this care. Section 1011 is intended to provide relief to these providers, and we intend to implement it in the way that maximizes support for this critical health care.

We have received many thoughtful and valuable comments about our proposed implementation plan that we posted on July 22, 2004. We took particular note of the concerns expressed in comments regarding the public health implications of our proposal for determining eligibility for payment under the statute. In addition, we agree with the commenters that our implementation policy not impair the provider-patient relationship.

Based on these comments, we are completing our guidance to health care providers to implement the law. Our intention is to accept the public comments that suggested the use of indirect, non-burdensome eligibility methods to target the funds using methods that do not require providers to obtain direct evidence of a patient's immigration status. As a result of these pending changes, providers will not be asked - and should not ask - about a patient's citizenship status in order to receive payment under this program.

In this regard, the proposed eligibility data collection instrument included in our July posting should not be used to obtain funding under the law. This is not the instrument that will be part of the final policy.

We expect to release our final policy as soon as we complete our comprehensive review of the comments.

Sincerely,

Mark B. McClellan, M.D., Ph.D.