



**American Hospital
Association**

Liberty Place, Suite 700
325 Seventh Street, NW
Washington, DC 20004-2802
(202) 638-1100 Phone
www.aha.org

August 1, 2013

The Honorable Mike Rogers
United States House of Representatives
2112 Rayburn House Office Building
Washington, DC 20515

Dear Representative Rogers:

On behalf our nearly 5,000 member hospitals, health systems and other health care organizations, and our 43,000 individual members, the American Hospital Association (AHA) wishes to express our opposition to H.R. 2869, the *Medicare Patient Access to Cancer Treatment Act of 2013*.

The bill purports to ensure the availability of chemotherapy services by increasing the payments physicians receive to administer chemotherapy to cancer patients in private practice oncology clinics. But the bill accomplishes this by actually cutting cancer treatment payments for hospital outpatient departments (HOPDs). By so doing, this misguided legislation will limit access to chemotherapy services for many cancer patients who now receive their treatment in the outpatient setting of their community hospital.

The recognized payment differential between an HOPD and a physician office is to address the added capabilities required of hospitals. In the recently published 2014 Physician Fee Schedule Proposed Rule, the Centers for Medicare & Medicaid Services described the payment rationale:

We believe that this payment difference generally reflects the greater costs that facilities incur than those incurred by practitioners furnishing services in offices and other non-facility settings. For example, hospitals incur higher overhead costs because they maintain the capability to furnish services 24 hours a day and 7 days per week, furnish services to higher acuity patients than those who receive services in physician offices, and have additional legal obligations such as complying with the Emergency Medical Treatment and Active Labor Act (EMTALA). Additionally, hospitals and ASCs must meet Medicare conditions of participation and conditions for coverage, respectively.

Further, hospitals care for all patients who seek emergency care, regardless of their insurance status or ability to pay; maintain standby disaster readiness capacity in the event of a catastrophic occurrence; and treat patients who are too sick and require more complex services than those treated by private practice oncology clinics. In addition, hospital outpatient departments provide



services to all Medicare and Medicaid patients. This is not the case for private practice oncology clinics. According to the Medicare Payment Advisory Commission's March 2013 report, Medicare already pays nearly 11 percent less than the cost of providing services in the hospital outpatient setting.

Recent media reports detail how private practice oncology clinics are currently turning away Medicare patients¹. H.R. 2869 describes how HOPDs are seeing an increased number of patients, but as the news articles describe, part of that phenomenon is because private practice oncology clinics primarily serve those patients that are well insured and provide generous payments, and are declining to care for Medicare beneficiaries. In fact, analyses demonstrate that HOPDs serve patients with more complicated conditions or a higher case-mix, and do not refuse to treat Medicare and Medicaid patients.

Hospitals today face many challenges to maintain the full panoply of services that the public expects to receive when they are sick and need care 24/7 – challenges that are not confronted by private practice oncology clinics. Increased demand for specialized services, staffing shortages, diminishing financial support from Medicare and Medicaid, capital expenses, increased accreditation requirements, and greater expectations for emergency preparedness are just a few of the challenges that hospitals are facing. H.R. 2869 will exacerbate the stress on hospitals and on cancer patients.

Our goal is to ensure cancer patients continue to have access to care. But the unintended consequences of this bill are significant, and therefore we must respectfully oppose this legislation.

Sincerely,

Rick Pollack
Executive Vice President

¹ Washington Post, April 3, 2013, "Cancer clinics are turning away thousands of Medicare patients. Blame the sequester." <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/04/03/cancer-clinics-are-turning-away-thousands-of-medicare-patients-blame-the-sequester/>