



**American Hospital
Association**

December 12, 2013

The Honorable Jim Gerlach
United States House of Representatives
2442 Rayburn House Office Building
Washington, D.C. 20515

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

Dear Congressman Gerlach:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our 43,000 individual members, the American Hospital Association (AHA) is pleased to support your legislation, the *Two-Midnight Rule Delay Act* (H.R. 3698), to delay enforcement of the Medicare inpatient admission and review criteria (the two-midnight policy).

The two-midnight policy undermines medical judgment of physicians and disregards the level of care actually needed to safely treat a patient. Moreover, the two-midnight policy has been impossible for hospitals and physicians to come into compliance with given the initial two-month time period between the release of the final rule and the policy's effective date. Even with the partial delay in enforcement through March 31, 2014, there is not enough time for hospitals and physicians to adjust. Providers need additional time to reevaluate and potentially change many internal policies, update existing electronic medical records systems and alter work flow processes to ensure compliance with the two-midnight policy.

Furthermore, many questions about the two-midnight policy remain unanswered. The Centers for Medicare & Medicaid Services (CMS) has issued only minimal guidance – most of which lacks clarity and only raises new questions for both hospitals and physicians.

We believe that the only workable approach is to delay enforcement of the two-midnight policy until October 1, 2014, as your legislation requires. During this delay, CMS should convene a meeting with affected stakeholders to develop alternate policy solutions that would address the increase in use of observation care and the related issues that this trend has caused for hospitals, physicians and patients. H.R. 3698 directs CMS to implement a new payment methodology that will both address this trend and adequately provide for the intense, inpatient-level services currently provided by hospitals to Medicare beneficiaries that are reasonable and necessary but do not appear on the inpatient-only list and are not expected to span two midnights.

We appreciate your leadership in introducing legislation on this timely issue. The AHA looks forward to working with you to ensure its enactment.

Sincerely,

Rick Pollack
Executive Vice President

