

Congress of the United States
Washington, DC 20515

July 31, 2015

Andrew M. Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Slavitt:

We write in response to the Centers for Medicare & Medicaid Services' (CMS) calendar year (CY) 2016 proposed rule for the hospital outpatient prospective payment system (OPPS). In this rule, CMS proposes to update OPPS payment rates by *negative* 0.2 percent, meaning that hospitals would be paid \$43 million less for patient care in CY 2016 than they were in CY 2015. We are surprised and disappointed that CMS has proposed a negative update to OPPS payment rates for CY 2016. According to MedPAC, Medicare already pays hospitals less than 88 cents on the dollar for outpatient services and this rule will make that situation worse for our constituents – both hospitals and patients alike.

CMS's proposed negative update results largely from a proposed 2.0 percentage point cut intended to account for the Office of the Actuary's (OACT's) previous overestimation of the amount of packaged laboratory payments in the OPPS. CMS concludes that these laboratory tests were, instead, separately paid under the Clinical Laboratory Fee Schedule (CLFS). Specifically, the agency states that OACT estimates it included about \$1 billion in the OPPS payment rates for laboratory tests that were instead paid under the CLFS.

We urge you to use public data and maintain transparency in all policy making, but especially when reimbursements for providers could be cut so drastically. For example, in calculating its \$1 billion figure, OACT used data that are not publicly available. In addition, it used CY 2014 claims, which were paid under CY 2014's laboratory packaging policy; yet CMS is proposing to modify its laboratory packaging policy for CY 2016. It is inequitable for the agency to apply a cut calculated under one set of policies to payment rates calculated under a different set of policies.

Medicare already pays providers less than the cost of care. Prescribing a negative update to OPPS payment rates will only make it more difficult for hospitals to serve their patients and their communities, particularly as they move to adopt delivery system reforms. Given the number of questions regarding this policy, we ask CMS to reconsider its approach and provide better scrutiny and transparency of the data used to justify OACT's conclusion. It is not appropriate to apply a negative update for hospitals in any given calendar year and we urge CMS to work with Congress in order to ensure all annual updates remain positive.

Sincerely,



The Honorable Pat Tiberi
Member of Congress



The Honorable Richard Neal
Member of Congress
