Federal Update Webinar

Agenda

Welcome and Introductions

The View from Washington

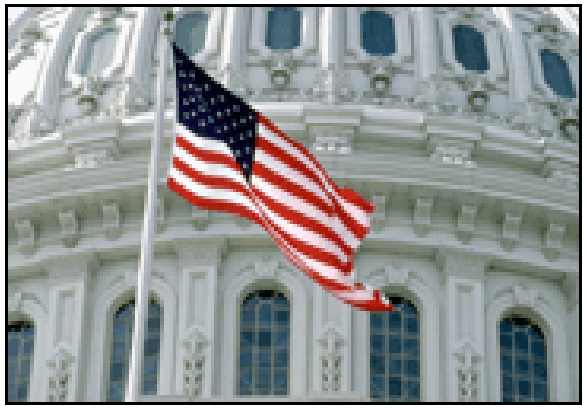
- **Current Political Environment**
- **AHA Rural Hospital Advocacy Agenda**
- **AHA Regulatory Environment**

Questions from the Audience

Open Forum: What's on Your Mind

American Hospital Association

View from Washington



American Hospital Association

Section for Small or Rural Hospitals

Spring 2009

Current Political Environment

American Hospital Association

Children's Health Insurance Program

- **Reauthorizes SCHIP through September 2013**
- **$32.8 billion funded through a 62-cent increase in the federal tax on cigarettes**
- **Covers 7 million children currently enrolled and an additional 4 million eligible children**
- **Removes the five-year waiting period to cover legal immigrant children and pregnant women**
- **Excludes an AHA-backed ban on physician self-referral to hospitals in which they have an ownership interest**

American Hospital Association

American Recovery and Reinvestment Act

Key Provisions

- **Health care for newly unemployed [$24.7 billion]**
- **Medicaid funding**
  - FMAP increase [$86.6 billion]
    - MOE for eligibility
    - Hold-harmless for formula declines
  - DSH allotment increases [$460 million]
  - Prompt payment for hospitals and nursing homes [$680 million]
- **Regulatory moratoria**
  - Blocks implementation of seven Medicaid regulations
  - Prevents implementation of regulation cutting Medicare capital payments for teaching hospitals
  - Prevents implementation of Medicare regulation cutting wage index for hospices [$134 million]

American Hospital Association

American Recovery and Reinvestment Act

Key Provisions

- **Health information technology**
  - Process for establishing standards for adoption by December 31, 2009
    - ➢Incentives for providers to adopt standards by October 1, 2014
  - Medicare and Medicaid payments to assist hospitals and physicians adopt IT beginning October 1, 2010 [$19 billion]
  - Implementation assistance grants and demonstrations [$2.3 billion+]
  - Expansion of broadband technology [$7.2 billion]
  - New privacy provisions

American Hospital Association

American Recovery and Reinvestment Act

Key Provisions

- **Hospital bonds**
  - Increases amount that banks can deduct for tax-exempt bonds
- **Health professions education [$500 million]**
- **Creates wellness and prevention fund [$1 billion]**
- **Comparative effectiveness research [$1.1 billion]**

American Hospital Association

Impact on Labor Issues

LEGISLATIVE

- Card check
- Supervisor issue
- Manual lifting
- Staffing ratios
- Mandatory overtime

REGULATORY

Employee FREE CHOICE ACT

SEIU

AFL-CIO

Change to Win Coalition

ANA
AMERICAN NURSES ASSOCIATION

OSHA Occupational Safety and Health Administration

National Labor Relations Board

President's Budget, FY 2010

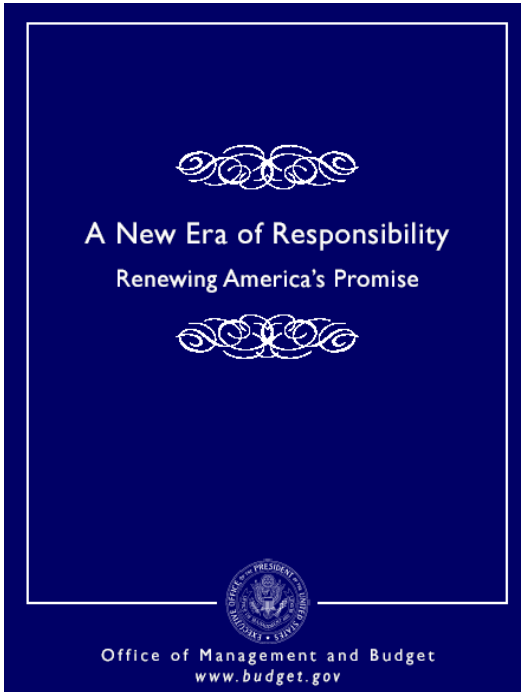
Obama Administration announced that it would create a 10-year reserve fund of more than $630 billion to finance health reform efforts, with half of that amount coming from new revenues such as higher taxes and the other half from program savings.

Hospital Provisions

- **Bundling payments for hospital care and post-acute care: savings of $17.84 billion over 10 years.**
- **Paying hospitals with certain readmission rates less for patients readmitted within 30 days: savings of $8.43 billion over 10 years.**
- **Linking a portion of inpatient hospital payment to performance on specific quality measures: savings of $12.09 billion over 10 years.**
- **The budget outline also cites the need to address physician self-referral to facilities in which they have a financial interest.**

Federal Budget Deficit Reduction

- **Reduce deficit in half over ten years**
- **Expiration of Bush tax cuts on higher income**
- **Reduce defense spending**
- **Application of “pay-go”**



American Hospital Association

Omnibus Appropriations Act, 2009

111TH CONGRESS
1ST SESSION

H. R. 1105

AN ACT

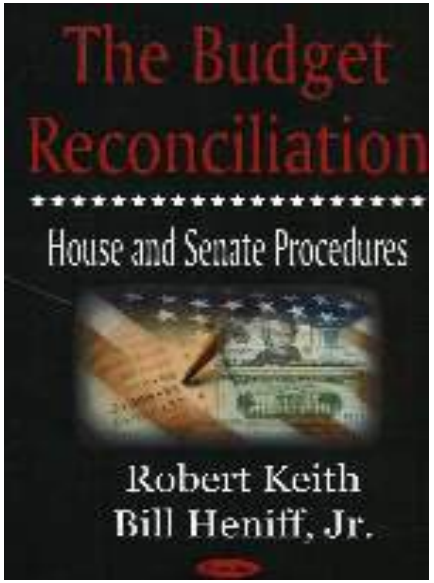
Making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

The U.S. House and Senate extended through March 11, a continuing resolution funding DHHS and other federal agencies. The extension gives the Senate time to consider H.R. 1105 to fund HHS and other federal programs through September. The Senate agreed to consider amendments to the bill.

American Hospital Association

Reconciliation process

- **Advantages**
  - **Efficient**
  - **Cannot be filibustered in Senate (50 votes vs. 60 votes)**
- **Disadvantages**
  - **Likely to be partisan battle**
  - **Less balanced product**
- **Makes House a player**



American Hospital Association

Health Care Reform

Obama Plan and Emerging Consensus
Coverage…Massachusetts Framework

- **"Pay or play" for employers with individual mandate**
- **Make SCHIP available to all children who need it**
- **Provide premium subsidies for low-income individuals (who can't afford employee share of ESI)**
- **Tax credits for small employers to purchase coverage**
- **Federal reinsurance mechanism to cover catastrophic expenses in employer plans**
- **Create "National Exchange" that includes *new public program* for uninsured**
- **Regulating private insurance with guaranteed coverage and rates**

American Hospital Association

White House Forum on Health Reform

100 plus participants representing health care, business, insurance and consumer interests broke into five groups to discuss how to make U.S. health care more accessible and affordable.

Reform must address the five elements that comprise Health for Life: Better Health. Better Health Care –

1. **Coverage for All Paid for by All**
2. **Focus on Wellness**
3. **Most Efficient Affordable Care**
4. **Highest Quality Care**
5. **Best Information**

Health for Life
Better Health. Better Health Care.

Rural Hospital Advocacy Agenda 2009

American Hospital Association

MIPPA - H.R. 6331

Inpatient

Sec. 121 Extends the FLEX program through September 30, 2010 and expands the program to provide grants to mental health services for veterans and residents of rural areas. Provides assistance for small rural hospitals transitioning to SNFs.

Sec. 122 Provides a new base year for SCHs for cost reporting periods on or after Jan. 1, 2009 based on FY 2006 cost reports.

Sec. 123 Establishes a demo project to allow states (AK, MT, WY, ND and NV) to test ways to coordinate hospital, nursing home, home health and other health care services in rural areas.

Sec. 124 Extends the provisions of the MMA relating to wage index reclassifications for certain hospitals through Sept. 30, 2009.

Sec. 125 Revokes the unique authority of the Joint Commission to deem hospitals in compliance with the Medicare CoP.

American Hospital Association

MIPPA - H.R. 6331

Outpatient and Other

Sec. 136 Extends for 18 months the provision that allows independent labs to continue to bill Medicare directly for the physician pathology services they provide to hospitals.

Sec. 146 Reinstates the add-on payment for ground ambulance services at 3% for rural services and provides an 18-month hold harmless for air ambulance regions recently reclassified from rural to urban.

Sec. 147 Extends until December 31, 2009, provisions that ensure small rural hospitals receive payments for outpatient services that are at least 85% of what they received before the Hospital OPPS took effect. This provision would also extend to SCHs under 100 beds.

Sec. 148 Allows CAHs serving rural areas to receive 101% of reasonable costs for clinical lab services provided to Medicare beneficiaries regardless of whether the lab specimen was taken in the hospital or off-site at another facility operated by the CAH.

Conrad State 30 Improvement Act

110TH CONGRESS
2D SESSION

H.R. 5571

AMENDMENT

Extends the J-1 visa waiver program through March 6, 2009, subject to the overall limit of 30 participants per state.

Increases from five to 10 the number of alien physicians who may serve in state facilities.

Expresses the sense of Congress that:

1) **federal programs are designed to promote the delivery of critically needed medical services to people lacking adequate access to physician care; and**
2) **when determining a HPSA, the Secretary should consider:**
   - **low-income and impoverished**
   - **high infant mortality rates, and**
   - **other signs of a lack of necessary physician services.**

American Hospital Association

CAH Flexibility Act

Critical Access Hospital Flexibility Act

HR 668 Reps. Walden (D-OR) and Kind (R-WI)
S 307 Sens. Wyden (D-OR) and Crapo (R-ID)

HR 668/S 307 provides flexibility in the manner in which beds are counted to determine whether a hospital may be designated as a CAH.

- **25 beds on a daily basis or 20, as determined on an annual, average basis. In determining the number of beds for purposes of clause only beds that are occupied shall be counted.**
- **Excludes from the bed counts any that is used to provide care to a veteran referred to the hospital by the VA.**

American Hospital Association

Tweener Bills

HR 362, The Rural Hospital Assistance Act

Reps. Boswell (D-IA) and Emerson (R-MO)

- **Provides for Medicare inpatient payment adjustments for low-volume PPS hospitals more than 15 miles from another PPS hospital and having less than 1,500 discharges of Medicare Part-A beneficiaries**
- **Provides for the use of the non-wage adjusted PPS rate under the Medicare-dependent hospital (MDH) program.**
- **Eliminates the Medicare hospital exception for physician-owned hospitals, but provides a limited exception for existing facilities.**

American Hospital Association

Tweener Bills

S 318, The Medicare Rural Health Access Improvement Act, Sen. Grassley (R-IA)

- Extends Medicare FLEX Grants
- Improves MDH Program payments to the hospital without regard to any adjustment for different area wage levels
- Redefines a low-volume PPS hospital as located more than 15 road miles from another PPS hospital and having less than 2,000 discharges of Medicare Part-A beneficiaries
- Extends and expands the Medicare hold-harmless for Outpatient PPS and SCH adjustment
- Extends treatment of physician path services under Medicare
- Extends rural ground ambulance bonus
- Improves payment to RHCs at $92 per visit
- Exempts DME supplies in small MSAs and rural areas

American Hospital Association

Support the Coalition/Caucus

Rural Legislative Initiatives

- Extend Expiring MIPPA Provisions
- The 340B Program Improvement and Integrity Act
- CAH Payments for CRNA Services
- Reinstate CAH Necessary Provider
- Extend and expand the Rural Community Hospital demonstration program

American Hospital Association

Credit Crunch

American Hospital Association

Access to Capital

The Capital Crisis: Survey of Impact on Hospitals

December 2008 – January 2009

- **90% of hospitals: harder to borrow funds through tax-exempt bonds**
- **90% of hospitals: charitable donations have declined**
- **75% of hospitals: harder to obtain loans from banks and other financial institutions**
- **58% of hospitals postponed existing or planned projects of which:**
  - **82% would upgrade/modernize facility or add new capacity**
  - **65% would add clinical technology**
  - **62% would add information technology**

Regulatory Environment

American Hospital Association

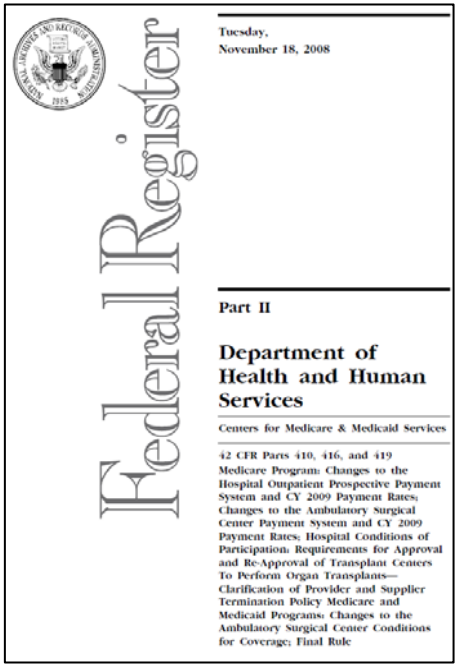
Outpatient Final Rule

Direct Supervison:

In § 410.27(f) ‘‘Direct supervision means that the physician must be present and on the premises of the location and immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician must be present in the room when the procedure is performed.’’

“Therefore, all provider-based departments providing diagnostic services, whether on or off the hospital’s main campus, should follow the requirements.”

CMS have not further defined the term ‘‘immediately available.’’


Federal Register

Tuesday,
November 18, 2008

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 410, 416, and 419
Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and CY 2009 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2009 Payment Rates; Hospital Conditions of Participation; Requirements for Approval and Re-Approval of Transplant Centers To Perform Organ Transplants—Clarification of Provider and Supplier Termination Policy Medicare and Medicaid Programs; Changes to the Ambulatory Surgical Center Conditions for Coverage; Final Rule

American Hospital Association

TRICARE

TRICARE; Reimbursement of CAHs

- Currently CAHs are subject to the TRICARE DRG-based payment system for inpatient care.
- CAHs are reimbursed based on billed charges for facility charges for outpatient care.
- In Alaska CAHs are reimbursed the lesser of the billed charge or 101 percent of reasonable costs for inpatient and outpatient care.
- TRICARE is proposing to adopt this same reimbursement methodology for all CAHs.
- AHA urges TRICARE to adopt Medicare's exact payment methodology for CAHs and to include interim payments and cost settlement mechanisms in the rule to guarantee that CAHs are reimbursed in a timely manner at the appropriate level.

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2008–HA–0007; 0720–AB21]

32 CFR Part 199

TRICARE; Reimbursement of Critical Access Hospitals (CAHs)

American Hospital Association

Other Proposed Rules

Index of Primary Care Underservice

- **Geographic HPSA**
- **Population MUP**
- **Safety-net facility HPSA**

CoP and Payment of RHCs and FQHCs

- **Shortage area review**
- **Exception criteria – essential provider**
- **Payment methodology**
- **Per-visit payment limit exception**
- **CoPs**

American Hospital Association

Quality Measures

Hospital Compare - Required of PPS

For FY 2009, hospitals must report 30 measures including:

For 2010, CMS requires 13 new measures.

Propose minimum thresholds

- **5 cases/quarter for AMI, heart failure, pneumonia, etc.**
- **5 cases/month for HCAHPS-eligible patients**


Federal Register

Tuesday,
August 19, 2008

Book 2 of 2 Books
Pages 48433–49084

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 411, 412, 413, 422, and 489
Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Final Rule

Hospital Acquired Conditions – Required of PPS

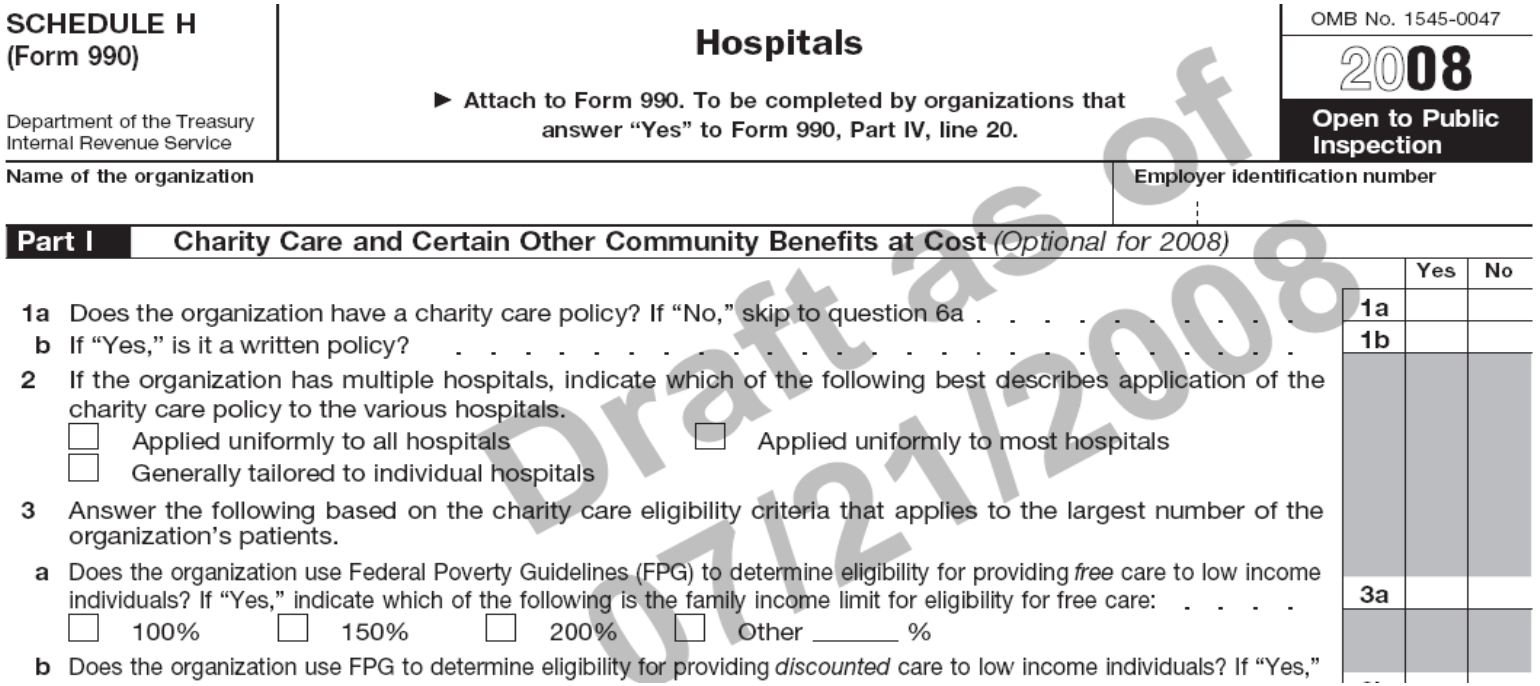
- **A total of 10 conditions are now identified for FY 2009**
- **Present on Admission is a required**

American Hospital Association

IRS on Public Reporting

Form 990 Schedule H – Parts 1-6

1. Charity Care and Certain Other Community Benefits
2. Community Building Activities
3. Bad Debt, Medicare, and Collection Practices
4. Management Companies and Joint Ventures
5. Facility Information
6. Supplemental Information



SCHEDULE H (Form 990)

Department of the Treasury
Internal Revenue Service

Hospitals

► Attach to Form 990. To be completed by organizations that answer "Yes" to Form 990, Part IV, line 20.

OMB No. 1545-0047

2008

Open to Public Inspection

Name of the organization

Employer identification number

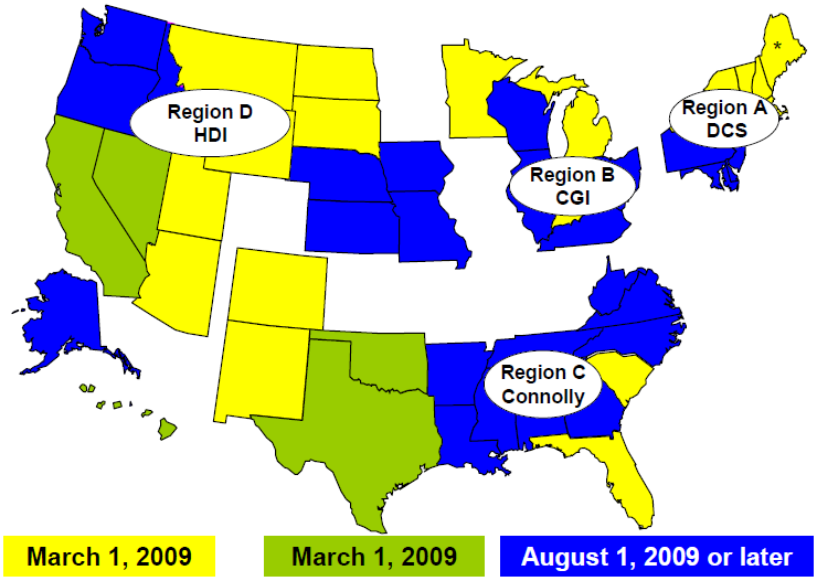
Part I Charity Care and Certain Other Community Benefits at Cost *(Optional for 2008)*

		Yes	No
1a	Does the organization have a charity care policy? If "No," skip to question 6a	1a	
b	If "Yes," is it a written policy?	1b	
2	If the organization has multiple hospitals, indicate which of the following best describes application of the charity care policy to the various hospitals. ☐ Applied uniformly to all hospitals ☐ Applied uniformly to most hospitals ☐ Generally tailored to individual hospitals		
3	Answer the following based on the charity care eligibility criteria that applies to the largest number of the organization's patients.		
a	Does the organization use Federal Poverty Guidelines (FPG) to determine eligibility for providing *free* care to low income individuals? If "Yes," indicate which of the following is the family income limit for eligibility for free care: ☐ 100% ☐ 150% ☐ 200% ☐ Other _____ %	3a	
b	Does the organization use FPG to determine eligibility for providing *discounted* care to low income individuals? If "Yes,"		

Recovery Audit Contractors

- Education and outreach will begin immediately
- RACs have admin tasks to complete before audits can begin
  - Complete JOA's with MACs (FI/Carriers)
  - Secure claims from CMS
  - Prepare issues for "new issue review" and approval by CMS
- Audits not likely to begin until May 2009
- Automated reviews are likely to occur before complex reviews

RAC Phase-In Schedule



American Hospital Association

AHA Strategy

AHA's Three-tiered Approach

1. Work with CMS on program improvements
   - Assist with program refinements
   - Regular communication
2. Seek relief from Congress
   - Tell the other side of the story
   - Further RAC fixes
   - Medicare RAC Moratorium Act of 2007 – HR 4105
3. Member Education
   - Advisories
   - Call series

American Hospital Association

Contact Information

American Hospital Association

Barbara Lorsbach, Sr. V.P., Member Relations

blorsbach@aha.org

Kristin Welsh, V.P., Federal Relations

kwelsh@aha.org

Joanna Hiatt, Sr. Assoc. Director, Policy

jhiatt@aha.org

John Supplitt, Sr. Director, Constituency Section

jsupplitt@aha.org

American Hospital Association

American Hospital Association