September 5, 2018

Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Hubert H. Humphrey Building  
200 Independence Avenue, S.W., Room 445-G  
Washington, DC 20201  

RE: Patient Protection and Affordable Care Act; Adoption of the Methodology for the HHS-Operated Permanent Risk Adjustment Program for the 2018 Benefit Year Proposed Rule

Dear Ms. Verma:

On behalf of the American Hospital Association’s (AHA) nearly 5,000 member hospitals, health systems and other health care organizations, of which approximately 90 sponsor health plans, and our clinical partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, thank you for publishing additional information on the Centers for Medicare & Medicaid Services’ (CMS) methodology for the Department of Health and Human Services-operated permanent risk adjustment program for the 2018 benefit year.

This proposed rule expands on the agency’s rationale for using statewide average premiums in the 2018 risk adjustment methodology. Although the agency had already adopted this methodology for the 2018 benefit year, the U.S. District Court for the District of New Mexico in New Mexico Health Connections v U.S. Department of Health and Human Services found that the agency had not sufficiently explained this particular component of the methodology. The court’s decision has injected uncertainty into the marketplaces as insurers used this methodology in setting their 2018 rates. By finalizing these regulations as proposed, we believe CMS would address the courts’ concerns and thus minimize the risk of substantial instability to the marketplaces.

In addition, finalizing this rule would have no bearing on the methodology for future benefit years. We believe that some refinements to the program may be needed to ensure that the methodology does not unintentionally harm smaller and newer insurers. However, any changes of that nature should only be applied prospectively.
Thank you for the opportunity to provide input on this issue. Please contact me if you have questions, or feel free to have your team contact Molly Smith, vice president of policy, at (202) 626-4639 or mollysmith@aha.org.

Sincerely,

/s/

Ashley Thompson
Senior Vice President
Public Policy Analysis and Development