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Statement
of the
American Hospital Association
before the
Committee on Energy and Commerce
Subcommittee on Health
of the
United States House of Representatives

"Treatments for an Ailing Economy:
Protecting Health Care Coverage and Investing in Biomedical Research"

November 13, 2008

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our 38,000 individual members, the American Hospital Association (AHA) appreciates the opportunity to submit this statement for the record as the Health Subcommittee of the Committee on Energy and Commerce examines the need for a second short-term economic stimulus legislative package to stave off a deep economic recession.

A weak economy means fewer jobs with employer-based health care coverage and, consequently, greater numbers of uninsured individuals and families. Medicaid is *the* public program designed to assist vulnerable populations in times of economic hardship. As state revenues decline and Medicaid enrollment increases, state governments will struggle to meet the health care needs of their residents. A fiscal relief package for the states is important, as the economy has worsened, and should include a temporary increase in Medicaid's federal medical assistance percentage (FMAP).

Hospitals are not immune to the pressures of a worsening economy. Any changes to Medicaid and Medicare payments directly impact the health of our facilities and the patients we serve. Therefore, the legislative package also should include a moratorium on two Centers for Medicare & Medicaid Services (CMS) regulations that would negatively impact hospital payments: one that would cut federal funds to state Medicaid programs; and the other related to Medicare payments to teaching hospital.

HOSPITALS AND THE ECONOMY

Hospitals are not immune from economic downturns. Reports are coming in that some hospitals are seeing fewer insured patients, while at the same time more uninsured and underinsured people are showing up at the emergency department. The hospital field also has been negatively impacted by the lack of liquidity in the credit market. Hospitals, like many businesses, use lines of credit to finance utility payments and payroll. In addition, non-profit hospitals are finding it difficult to raise capital through the municipal bond market. With these increased pressures, some hospitals have been forced to lay off workers and delay capital improvements.

FMAP

The demand for Medicaid services increases during a time of economic recession, requiring states to manage the increase in enrollment and funding pressures at a time when most of their budgets are stretched thin. According to an April 2008 report by the Kaiser Commission on Medicaid and the Uninsured, a one percentage point rise in the national unemployment rate would increase enrollment in Medicaid and the State Children's Health Insurance Program (SCHIP) by 1 million (600,000 children and 400,000 non-elderly adults) and cause the number of uninsured to grow by 1.1 million. Medicaid and SCHIP costs would increase by $3.4 billion, including $1.4 billion in state spending, representing a one percent increase in total Medicaid and SCHIP expenditures.

During the last economic downturn, from 2001-2004, states cut spending for services – including Medicaid – in order to balance their budgets. Congress provided a $10 billion temporary increase in the matching rate to assist the states and maintain Medicaid coverage. According to surveys by the Kaiser Commission on Medicaid and the Uninsured and the National Association of State Budget Officers, as many as 25 states used these resources to avoid, lessen, or postpone Medicaid cutbacks; and as many as seven states used these resources to restore previous Medicaid cutbacks or make other program expansions. Once again, the states are seeking assistance due to a weak economy. It is estimated that over the current and next fiscal years, 39 states will face budget shortfalls.

The AHA supports a temporary FMAP increase that would allow states to use such funds to support their Medicaid programs and maintain their current levels of enrollment. This is critical because states have already targeted their Medicaid programs in a search for savings through provider payment freezes or reductions, as well as benefits and eligibility changes. Such cuts will further weaken the already tenuous foundation of the health care safety net, dramatically harming the ability of providers to continue serving our most vulnerable patients.

REGULATIONS THAT SHOULD BE UNDER A MORATORIUM

Given the financial constraints faced by hospitals, the AHA believes two CMS rules should be placed under moratoria: the Medicaid hospital outpatient rule and the Medicare indirect medical education (IME) capital payment cut.

Outpatient Rule. This rule, which will take effect December 8, substantially departs from long-standing Medicaid policy regarding the definition of Medicaid outpatient hospital services. Under the rule, the types of services that are at risk for not being reimbursed through hospital outpatient programs include Medicaid's early and periodic screening and diagnostic treatment dental services for children; physician emergency department services; physical, occupational and speech therapies; outpatient clinical diagnostic laboratory services; ambulance services; durable medical equipment; and outpatient audiology services.

CMS stated that it based its dramatic shift in policy on the need to align Medicaid outpatient policies with Medicare outpatient policies. However, these programs serve very different populations; Medicaid serves a largely pediatric population, while Medicare serves an elderly population. Yet despite these differences, CMS would narrowly define Medicaid hospital outpatient services to align Medicaid with Medicare. The effect of aligning the hospital outpatient policies for these two programs would be to limit Medicaid federal spending for hospital outpatient programs and state Medicaid programs overall and, ultimately, the patients served by Medicaid.

In addition to the 333 states, local government, providers and health care associations that submitted comments to CMS, Congress has spoken repeatedly in bipartisan opposition to the rule. Two Senate bills (S. 2460 and S. 2819) that included a moratorium on the Medicaid outpatient regulation received strong support from members of both parties. By a vote of 349-62, the House overwhelmingly passed legislation (H.R. 5613) that included a similar moratorium. The outpatient moratorium and others contained in H.R. 5613 were part of the *Supplemental Appropriations Act of 2008*, but the outpatient regulation was dropped during negotiations between the White House and House leadership. And before the end of the legislation session, Senators Charles Schumer and Hillary Clinton and Representative Eliot Engel introduced related versions of the PATH Act (S. 3656 and H.R. 7241) which, among other provisions, included a moratorium on the Medicaid outpatient regulation. Given the bipartisan support for preventing the outpatient regulation from moving forward, the AHA believes Congress should institute a moratorium on this rule.

Capital IME Payments. On July 31, CMS released its fiscal year (FY) 2009 final rule for the hospital inpatient prospective payment system (PPS). The final rule took effect October 1. One of the major changes in the rule included a policy to phase out the IME capital payment adjustment to teaching hospitals starting in FY 2009. Given that the impact of this phasing out of payment is significant – a reduction of $1.3 billion over five years – CMS provided the public with an additional opportunity to comment in the FY 2009 proposed rule. Although many commenters, including the AHA, 210 representatives and 51 senators, urged CMS not to proceed with these cuts, the agency announced that it was moving forward with its plans. Therefore, in FY 2009 hospitals will receive half their capital IME adjustment; in FY 2010 and beyond, the adjustment will be eliminated. These unnecessary cuts ignore how vital these capital payments are to investment in the latest medical technology, ongoing maintenance and improvement of hospital facilities and importance of medical education. The AHA believes Congress should reverse these cuts.

CONCLUSION

Hospitals and state Medicaid programs are reeling under the weight of an economic recession, and congressional assistance through another stimulus package is paramount. The AHA believes that the current fiscal crisis faced by states demands immediate and meaningful federal support through an increase in the federal Medicaid matching percentage.

Hospitals are important economic entities for their communities, and their emergency departments are the location of last resort for care for millions of the uninsured, including those that will lose their jobs and their employer based health care coverage. Medicaid and Medicare payment cuts at this time will only place further strain on many financially distressed hospitals. For this reason, we ask that Congress place a moratorium on the Medicaid and Medicare rules that could adversely impact access to much-needed services.