



FOR IMMEDIATE RELEASE

HOSPITAL GROUPS TO CONTINUE TO PURSUE LAWSUIT TO REVERSE CUTS FOR 340B HOSPITALS

WASHINGTON, DC (December 29, 2017) – Today, the American Hospital Association (AHA), the Association of American Medical Colleges (AAMC) and America's Essential Hospitals said they will continue to pursue the lawsuit following a district court decision granting the government's motion to dismiss it. The lawsuit sought to prevent Medicare payment cuts starting next month for many hospitals in the 340B Drug Pricing Program. The court's ruling was that the lawsuit was premature, but did not rule on the merits of the claim.

Last month, the three hospital groups sued the U.S. Department of Health and Human Services (HHS) in the U.S. District Court for the District of Columbia to prevent these cuts from starting on January 1, 2018. The three hospital associations were joined in the suit by hospital plaintiffs: Eastern Maine Healthcare Systems, in Brewer, Maine; Henry Ford Health System, in Detroit; and Park Ridge Health, in Hendersonville, North Carolina, part of Adventist Health System.

The lawsuit argues that the 340B provisions of the Centers for Medicare & Medicaid Services' (CMS) outpatient prospective payment system (OPPS) final rule violate the law and, therefore, should be set aside under the Administrative Procedure Act as unlawful and in excess of the HHS Secretary's statutory authority. The court's decision gives the groups an opportunity to refile the lawsuit once the cuts go into effect. CMS in the final rule reduces by nearly 30 percent, or \$1.6 billion, Medicare payments to certain hospitals for outpatient drugs purchased under the 340B program.

For 25 years, the 340B program has enabled hospitals and other organizations that care for communities with low-income and uninsured patients to purchase certain outpatient drugs from pharmaceutical manufacturers at discounted prices. The program allows participating hospitals to use the savings to provide an expanded range of comprehensive health services to their local communities, such as increased access to care, clinical pharmacy services, community outreach programs, free vaccines and transportation to follow-up appointments. The 340B program constitutes less than 2.8 percent of the \$457 billion in annual U.S. drug purchases.

“For 25 years, the 340B Drug Savings Program has played a vital role in helping hospitals stretch scarce federal resources to expand and enhance patient services and access to care without any cost to the government,” said Rick Pollack, AHA’s president and CEO. “Making cuts to the program, like those CMS has put forward, will dramatically threaten access to health care for many communities with vulnerable patients. We are disappointed in this decision from the court and will continue our efforts in the Courts and the Congress to reverse these significant cuts to the 340B program.”

“The court’s decision, while not ruling on the merits, still permits CMS to make drastic cuts to safety net hospitals that participate in the 340B program, which allows teaching hospitals to strengthen care for low-income, rural, and other underserved patients. As a result, institutions will have greater difficulty maintaining critical services that vulnerable patients often cannot access elsewhere,” said Darrell G. Kirch, MD, president and CEO of the AAMC. “The fact remains that the CMS rule is bad policy. We are committed to reversing this flawed policy to ensure patients continue to receive the vital services supported through the 340B program.”

“We’re disappointed by the court’s decision, but undeterred in our efforts to protect low-income patients and their essential hospitals,” said Bruce Siegel, MD, MPH, president and CEO of America’s Essential Hospitals. “This terrible policy threatens access to care in our most underserved communities and undermines hospitals on which millions of Americans depend. It must not move forward.”

For additional information, a copy of the complaint and decision can be found by visiting <http://www.aha.org/advocacy-issues/legal/litigation.shtml>

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Media Contacts:

Marie Johnson
AHA Media Relations Office
(202) 626-2351
mjohnson@aha.org

Stuart Heiser
AAMC
(202) 828-0059
sheiser@aamc.org

Carl Graziano
Director of Communications
America’s Essential Hospitals
(202) 585-0102
cgraziano@essentialhospitals.org

About the American Hospital Association

The AHA is a not-for-profit association of health care provider organizations and individuals that are committed to the improvement of health in their communities. The AHA is the national advocate for its members, which include nearly 5,000 hospitals, health care systems, networks and other providers of care. Founded in 1898, the AHA provides education for health care leaders and is a source of information on health care issues and trends. For more information, visit www.aha.org.

About the Association of American Medical Colleges

The Association of American Medical Colleges is a not-for-profit association dedicated to transforming health care through innovative medical education, cutting-edge patient care, and groundbreaking medical research. Its members comprise all 149 accredited U.S. and 17 accredited Canadian medical schools; nearly 400 major teaching hospitals and health systems; and more than 80 academic societies. Through these institutions and organizations, the AAMC serves the leaders of America's medical schools and teaching hospitals and their nearly 167,000 full-time faculty members, 88,000 medical students, and 124,000 resident physicians. Additional information about the AAMC and its member medical schools and teaching hospitals is available at www.aamc.org.

About America's Essential Hospitals

America's Essential Hospitals is the leading champion for hospitals and health systems dedicated to the highest-quality care for all people, regardless of their financial or social status. We support our 325 members with advocacy, policy development, research, and education. Communities depend on essential hospitals for primary care through trauma care, disaster response, health professionals training, public health programs, and other vital services. Essential hospitals innovate and adapt to lead the way to more effective and efficient care. Learn more at essentialhospitals.org.