Enact MACPAC Fix for Medicaid DSH Third-party Payment Issue

• The House and Senate are expected to negotiate a package of health policy “extenders” prior to the Dec. 11 expiration of the current delay to the effective date for scheduled cuts to Medicaid Disproportionate Share Hospital (DSH) payments.

• In addition to providing further relief from the pending DSH cuts, it is extremely important to children’s hospitals that Congress pass language implementing a key Medicaid and CHIP Payment and Access Commission (MACPAC) recommendation on “Medicaid shortfall/third party payment.”

• This recommendation addresses a CMS policy that has eliminated or significantly reduced children’s hospitals’ DSH payments, threatening their ability to serve children.

  o This recommended language addresses the treatment, for purposes of calculating DSH, of Medicaid-eligible individuals who have another source of coverage, such as private insurance or Medicare.

  o In 2017, the Centers for Medicare & Medicaid Services (CMS) released a final rule on how the Medicaid DSH payment program determines uncompensated care costs for Medicaid-eligible patients who also have a third-party source of coverage. Given the number of children treated at children’s hospitals who are eligible for Medicaid and have private insurance, this policy has significantly and negatively impacted several children’s hospitals across the country. In many cases, this policy has eliminated or significantly reduced children’s hospitals’ DSH payments.

  o The U.S. Supreme Court recently decided not to take up a case on this issue, exhausting the opportunity for a remedy in the courts to stop the CMS policy and mitigate the impact on children’s hospitals and other affected institutions.

  o MACPAC has recommended that Congress change the definition of “Medicaid shortfall” in statute to exclude costs and payments for all Medicaid-eligible patients for whom Medicaid is not the primary payer. If enacted, this policy would still have an impact on children’s hospitals, but it would lessen significant financial losses otherwise resulting from implementation of the CMS rule.

• Adopting the MACPAC recommendation would minimize further impact on children’s hospitals and their patients. **Tell Congress that MACPAC’s language on Medicaid shortfall and third-party payment must be enacted this year.**