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September 11, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Room 445-G
Washington, D.C. 20201

Re: Medicare Program; Hospital Outpatient Prospective Payment System: Remedy for the 340B-Acquired Drug Payment Policy for Calendar Years 2018–2022 (RIN 0938-AV18)

Dear Administrator Brooks-LaSure:

On behalf of the nation's children's hospitals and the patients and families we serve, thank you for the opportunity to comment on the CMS proposed rule, *Hospital Outpatient Prospective Payment System (OPPS): Remedy for the 340B-Acquired Drug Payment Policy for Calendar Years (CYs) 2018–2022*. We appreciate your efforts to address reimbursement for 340B drugs under OPSS and urge you to consider the proposed remedy's impact on children, who represent 25% of the total U.S. population.

The more than 200 children's hospitals that comprise the Children's Hospital Association (CHA) are dedicated to the health and well-being of our nation's children. Children's hospitals advance child health through innovations in the quality, cost and care delivery—regardless of payer—and serve as a vital safety net for uninsured, underinsured and publicly insured children. We are regional centers for children's health, providing highly specialized pediatric care across large geographic areas. Though children's hospitals account for only 5% of hospitals in the U.S, they account for about 45% of all hospital days for children on Medicaid.

While Medicare is an important source of coverage, it only insures a limited subset of the pediatric population, including children with end-stage renal disease. In contrast, Medicaid is the backbone of coverage for children in the United States. Medicaid, on average, provides health insurance coverage for one-half of children's hospitals patients; in some children's hospitals, Medicaid covers closer to three-quarters of their child patients.

Despite the limited number of children and youth with Medicare coverage, we know that Medicare policies often have a downstream effect on the Medicaid program, commercial coverage and children's hospitals. In our comments, we focus on the proposed provisions in the rule that will have an impact on children and the providers who care for them.

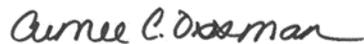
Budget Neutrality Adjustment

While we appreciate that the proposed rule would repay hospitals for underpayments of 340B outpatient drugs purchased between 2018 and 2022, we are opposed to the “budget neutrality adjustments” to offset this remedy.

Though a very small subset of children's hospitals' patients are covered by Medicare, the children's hospitals that provide needed care to those children could suffer financial losses at a time when critical resources have never been more needed. Children's hospitals are cornerstone providers within the pediatric health care infrastructure and must be protected from additional funding cuts. Children's hospitals have been uniquely impacted since the beginning of the COVID-19 pandemic as resources intended to support the entire U.S. hospital industry did not reach children's hospitals at proportional levels. Furthermore, children's hospitals rely heavily on the Medicaid program, where funding continues to be at risk. It's our understanding that HHS has the flexibility to not seek recoupment of funds that hospitals received and that hospitals have long since spent on patient care—including during the COVID-19 pandemic. At a minimum, we recommend that HHS delay the implementation of any adjustment until at least CY 2026 so that hospitals are given more time to recover financially from the COVID-19 pandemic.

We thank you for the opportunity to provide comments and look forward to continuing to work with you to improve children's health care. Please contact Natalie Torentinos at Natalie.Torentinos@childrenshospitals.org or (202) 753-5372 should you need more information.

Sincerely,



Aimee C. Ossman
Vice President, Policy
Children's Hospital Association