600 13TH ST., NW, SUITE 500
WASHINGTON, DC 20005
p | 202-753-5500
f | 202-347-5147

16011 COLLEGE BLVD., SUITE 250
LENEXA, KS 66219
p | 913-262-1436
f | 913-262-1575

WWW.CHILDRENSHOSPITALS.ORG

February 4, 2022

The Honorable Kevin Hern
United States House of Representatives
1019 Longworth House Office Building
Washington, D.C. 20515

The Honorable Victoria Spartz
United States House of Representatives
1523 Longworth House Office Building
Washington, D.C. 20515

The Honorable Rick Allen
United States House of Representatives
570 Cannon House Office Building
Washington, D.C. 20515

Dear Representatives Hern, Allen and Spartz:

On behalf of the nation's children's hospitals and the patients and families we serve, thank you for the opportunity to respond to your request for information (RFI) on design considerations for legislation to make health care more affordable. As you consider policy approaches to legislation that would increase price transparency, lower barriers to competition and empower consumers to have more choice in their health care providers, we urge you to ensure that your policy approaches do not inadvertently lead to barriers to needed, timely and appropriate care for children, particularly children with serious, chronic or complex health conditions.

Overall, close to 45% of all children are covered by commercial plans, including nearly one million children enrolled in the Qualified Health Plans sold through the health insurance Exchanges. We look forward to working with you on measures to ensure that commercial coverage and our overall health care system provides access to timely, affordable, high-quality and age-appropriate care that meets children's particular developmental needs.

The more than 220 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 delivery of care—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. Children's hospitals have a unique perspective of children's health care needs and the delivery of pediatric care.

Our responses to those aspects of your RFI that have implications for children's health and children's hospitals are below.

III. Increasing Transparency and Marketplace Innovation

Price transparency tools
The RFI seeks information on several issues related to the provision of this information to patients as required by various federal and state laws and regulations. We share the strong interest of this subcommittee, others in Congress and HHS in ensuring that patients are fully aware of the potential costs of their care and are committed to complying with all requirements as we work to help families understand their out-of-pocket obligations so they have the information they need to make appropriate care decisions.

We note, however, that compliance with the various federal requirements related to hospital price disclosure that have or will go into effect over the next couple of years[1] has necessitated the expenditure of substantial time, resources and staff during a time when children's hospitals continue to deal with multiple stressors as a result of the ongoing COVID-19 pandemic. The differing requirements of the various policies makes their implementation that much more difficult and we encourage the subcommittee to identify and work on ways to align these policies as much as possible. Implementation without alignment not only increases administrative and staffing challenges for our hospitals, but it will lead to unnecessary confusion for patients about their expected costs of care.

In addition, through their financial counselling work children's hospitals have found that families' ultimate concern is the impact of their treatment costs on their wallets. However, as you note in the RFI, the requirement that hospitals share their standard charges does not necessarily give patients useful information, as the detailed information on the chargemaster can be incomprehensible to patient families/guardians. Patient families are likely to have difficulty identifying the correct procedure, and even if they successfully do so, they probably will not find the information useful to them. For example, charges for drugs are typically presented for a specific unit dosage, but the actual amount administered to a patient will depend on a number of factors, including the patient's weight. However, a patient family/guardian could mistake that charge for the amount they would be responsible for without realizing that the actual amount will depend on the amount administered.

Children's hospitals also face a unique challenge as some pediatric patients have more than one form of health insurance coverage. For instance, children of working families with employer-sponsored insurance may, in some cases, also have Medicaid coverage because they have a complex medical condition. For some of these families, posted prices may be irrelevant but could cause confusion and deter them from seeking necessary care.

The RFI also references the advanced explanation of benefits (AEOB) that plans will need to provide to patients under the No Surprises Act. That AEOB will incorporate information from providers' good faith estimate of the costs of planned services. Children's hospitals support the goals of this legislation and agree with its intent to provide family patients with tailored cost information relevant to their planned care. We are now working to meet the operational challenges related to compliance with the complex requirements of the implementing regulations and have highlighted some of those challenges for CMS. We have also recommended to the administration that it streamline the estimate's components to focus on the information that is most relevant to, and understandable by, the patient and their family.

The level of complexity of the rule's required itemized list of services is likely to be overwhelming to patient families and may confuse them rather than provide them with relevant information that they can understand. While we agree that the estimate may help some patient families make care decisions, we anticipate that many of our families will need additional assistance from our financial services teams to review it and answer questions and will simply find the process overwhelming rather than helpful. Furthermore, the development of the detailed estimates is placing further administrative pressures on already strained staff and systems. We encourage this subcommittee to work with us and other provider stakeholders to explore ways to improve the good faith estimates so they provide understandable and useful information to patient families.

Increasing affordability of private health insurance

We are pleased that the subcommittee recognizes the importance of protecting individuals with pre-existing conditions in any policy approaches to bring down the costs of private insurance. We believe that a well-articulated federal foundational framework of private insurance requirements is critically important to protecting those with pre-existing conditions, particularly children.

Children are not little adults and their health care needs and the delivery system to meet those needs are different from those of adults. All commercial coverage for children, regardless of the state in which they live, must ensure access to timely, affordable, high-quality and age-appropriate health care (including dental, vision and hearing services) that meets

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[1] These policies include the following: Price Transparency Requirements for Hospitals to Make Standard Charges Public – Final Rule; Transparency in Coverage – Final Rule; 21st Century Cures Act Requirements on Interoperability, Pediatric HIT, and Information Blocking – Final Rule; The No Surprises Act

their unique needs. It is also important to note that pediatric specialty care is regional in nature, and families may need to travel across state lines to get that care. Therefore, families must be assured that the health plan they choose will cover the services and providers their child needs without exorbitant out-of-pocket costs, even in another state. Lack of access to appropriate and timely care could have long-term consequences for a child's health, development and future earning potential.

Unfortunately, there are inherent financial incentives for plans to not cover seriously ill children and other vulnerable populations or to limit that coverage through narrow networks and other means as a way to bring down premium costs. A clearly articulated framework for benefit design that covers all medically necessary and age-appropriate services for children, cost-sharing, other key consumer protections and network standards can provide financial protection for both insurers and families and help children who have the misfortune of illness or disability fulfill their lifelong potential.

Changes to 1332 waiver authority to help address affordability
We strongly believe that it is imperative that the affordability and coverage protections envisioned by Congress when it enacted Section 1332 are implemented in ways consistent with statutory requirements. Those guardrails are vitally important protections for children with serious, chronic or complex health conditions and their families. We urge you to avoid changes to the waivers that would allow the proliferation of non-ACA compliant plans and expose children and families to higher costs and less access to critically needed services. If states are allowed to move forward with waiver approaches that do not meet the current Section 1332 standards and guardrails, children, particularly those with serious chronic or complex conditions, could be subject to medical pre-existing condition exclusions, underwriting, annual and/or service-specific limits, coverage denials and limited access to appropriate child health providers.

We encourage you to work with pediatric providers on delivery system reforms and other health care quality improvement initiatives that will reduce health care costs and, thus, drive down premiums. We look forward to future opportunities for such collaborations with you to advance innovative delivery systems of care for children and reduce the costs of health care and coverage.

IV. Increasing Competition and Identifying Anti-competitive Consolidation

The 340B Drug Pricing Program helps kids. The program supports safety net providers, such as children's hospitals, in their missions to serve low-income, uninsured and underinsured patients. Children's hospitals are safety net providers that treat children regardless of ability to pay and provide care to a high level of low-income children. On average, more than half of children treated at children's hospitals are covered by Medicaid.

Under the 340B Program, hospitals that treat a large number of low-income patients can purchase outpatient drugs at lower prices, freeing up resources to support hospital operations and provide services to children. 56 children's hospitals currently participate in the program. More specifically, children's hospitals use the 340B savings to help offset low Medicaid reimbursement and subsidize part of the cost of providing critical services that benefit local communities, including behavioral health services, annual flu vaccinations, hemophilia treatment centers and affordable prescription drugs.

We believe that the 340B Program is working as intended to help safety net providers serve their communities. This program is even more critical than ever as our nation fights against COVID-19 and children's hospitals serve on the frontlines to ensure patients have access to the care they need. The COVID-19 pandemic has created significant workforce and broader financial challenges that threaten the essential role children's hospitals play in the future of our country.

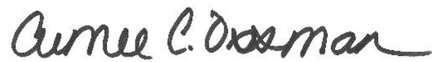
We encourage Congress to use its oversight powers to ensure that HHS enforces the 340B statute and uses its existing authority to penalize manufacturers for not meeting 340B statutory obligations. Recent actions by manufacturers that attack contract pharmacy policies are extremely harmful to patients. Manufacturers should not be allowed to create new rules for the 340B Program without repercussions, especially when they violate current law and look to collect data that could potentially violate privacy laws. Children's hospitals utilize contract pharmacies to help patients more easily access

medications within their communities. The ability to enter into arrangements with contract pharmacies enables patients to fill their prescriptions closer to home and without having to travel to the main hospital.

We also encourage lawmakers to avoid changes that focus solely on charity care and indiscriminately impose Medicare requirements. Due to Medicaid and CHIP, children's hospitals serve low numbers of uninsured patients. On average, more than half of children's hospitals' patients are covered by Medicaid, while less than 1% are covered by Medicare. Proposals should not subject 340B hospital entities to Medicare requirements without considering their applicability to children's hospitals. As you explore the 340B Program, we recommend a focus on the important role the program has played for children's hospitals and the children they serve.

Again, thank you for this opportunity to respond to your RFI, and we look forward to partnering with you as you explore these issues further and their impact on our nation's children. If you have any questions or need additional information on any of these issues, please contact Jan Kaplan or 202-753-5384.

Sincerely,



Aimee Ossman
Vice President, Policy
Children's Hospital Association