Washington State Hospital Association

June 17, 2022

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

RE: CMS-1771-P, Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Proposed Policy Changes and Fiscal Year 2023 Rates; Quality Programs and Medicare Promoting Interoperability Program Requirements for Eligible Hospitals and Critical Access Hospitals; Costs Incurred for Qualified and Non-qualified Deferred Compensation Plans; and Changes to Hospital and Critical Access Hospital Conditions of Participation: Proposed Rule (Vol. 87, No. 90), May 10, 2022.

Dear Administrator Brooks-LaSure:

On behalf of the Washington State Hospital Association (WSHA) and our more than 100 member hospitals and systems, we appreciate the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) hospital inpatient prospective payment system (IPPS) proposed rule for fiscal year (FY) 2023. We have significant concerns over the proposed payment update for IPPS hospitals for FY 2023, which would result in a net *decrease* in payments to IPPS hospitals in FY 2023 compared to FY 2022 when combined with the agency's proposed cuts to DSH payments and the dramatic increase in the proposed high-cost outlier threshold. This is of particular concern when the continuing cut to inpatient payment for Washington hospitals for FY 2023 because of the sequester alone is expected to be more than $41 million. To ensure that Medicare payments for acute care services more accurately reflect the actual cost of providing hospital care, we urge CMS to consider and implement the specific changes below.

Market Basket Increase

For FY 2023, CMS proposes a market basket update of 3.1 percent, less a productivity reduction of 0.4 percentage points, plus a documentation and coding adjustment of 0.5 percentage points, resulting in an update of 3.2 percent. Unfortunately, this update, as well as the FY 2022 payment update of 2.7 percent, lags far behind actual increases in the cost of providing care

999 Third Avenue, Suite 1400 | Seattle, WA 98104-4041 | PHONE: (206) 281-7211 | FAX: (206) 283-6122 | www.wsha.org

experienced by hospitals in the current inflationary environment. This is because the market basket is a time-lagged estimate that uses historical data to forecast into the future. The historical data used to project the FY 2022 and FY 2023 market basket and productivity adjustments are not indicative of current or future changes, and the market basket is grossly inadequate as an estimation of increases to cost of providing care. More recent data indicates the market basket for FY 2022 is trending toward 4.0 percent, well above the 2.7 percent CMS implemented last year. Washington hospitals are expected to face additional reductions of more than $23 million due to proposed wage index changes, though labor costs are significantly increasing for all hospitals. Additionally, the latest data also indicate *decreases* in productivity, rather than gains, so the productivity adjustment amount should be reduced. We urge CMS to consider the changing health care system dynamics and their effects on hospitals as it determines these figures. Specifically, we urge CMS to 1) implement a retrospective adjustment for FY 2023 to account for the difference between the market basket update that was implemented for FY 2022 and what the market basket is currently projected to be for FY 2022; and 2) eliminate the productivity cut for FY 2023.

The current inflationary economy combined with the COVID-19 crisis has put unprecedented pressure on our member hospitals. We remain on the front lines fighting this powerful virus—our doctors and nurses continue to care for COVID-19 patients even if other industries have moved on from the pandemic. At the same time, we continue to struggle with persistently higher costs and additional downstream challenges that have emerged because of the lasting and durable impacts of high inflation, workforce shortages, and the pandemic.

Specifically, historic inflation has continued and heightened the severe economic instability that the pandemic has wrought on our member hospitals. This includes increased drug costs and dramatic increases in the cost of attracting and retaining nurses and other hospital staff. Because this high rate of inflation is not projected to abate in the near term, and inflationary pressures are also likely to continue to work their way into wage expectations, it is critical to account for these challenges when considering hospital and health system financial stability in FY 2023 and beyond. The market basket updates for FY 2022 and FY 2023 based on a period where inflation was less of an issue, are resulting in woefully inadequate reimbursements for our hospital. We ask CMS to implement, for FY 2023, a retrospective adjustment to account for the difference between the market basket adjustment that was implemented for FY 2022 and what the market basket is currently projected to be for FY 2022.

Productivity Adjustment

Additionally, we ask that CMS eliminate the productivity cut for FY 2023. The measure of productivity used by CMS is intended to ensure payments more accurately reflect the true cost of providing patient care and effectively assumes the hospital field can mirror productivity gains across the private nonfarm business sector. This is not possible when costs increase more suddenly and rapidly than efficiency and productivity gains can occur. Therefore, we have strong concerns about the proposed productivity cut given the extreme and uncertain circumstances in which our hospital is currently operating. We urge CMS to eliminate the productivity cut for FY 2023.

Disproportionate Share Hospital (DSH) Payments

We are concerned with CMS' proposal to decrease DSH payments—by approximately $800 million—to hospitals for FY 2023. These payments are extremely important to our hospitals since they care for all members of their communities regardless of insurance status. We ask for more clarity on the agency's calculations for DSH payments. Specifically, we ask CMS to provide more details on the agency's assumption of small increases in discharge volume for FY 2022 and FY 2023. We anticipate significant increases due to deferred care and worsening conditions because of the pandemic. Although it is possible that volumes will remain lower than historic, pre-pandemic levels, the trends we are seeing now indicate that FY 2022 and 2023 volumes will continue to increase substantially.

Additionally, we question the agency's estimate that the uninsured rate will decrease from 9.6 percent to 9.2 percent from FY 2022 to FY 2023 when determining DSH payments. In our communities, we expect a large *increase* in the number of the uninsured, not a decrease, will occur as the public health emergency coverage provisions begin to unwind and our state, like others, will need to disenroll patients from the Medicaid program. Washington state recently increased the financial assistance requirements for hospitals which were already among the highest in the country, so hospitals' reliance on DSH funding will be greater. . We ask that CMS use more recent data and update its estimates of the Medicare DSH amount to more accurately reflect both discharge volume and the uninsured rate. This would yield figures that we believe would more accurately reflect changes in discharge volume and health insurance coverage and losses.

High-Cost Outlier Threshold

In addition, we are concerned about the dramatic scale of the proposed increase in the high-cost outlier threshold—a 39 percent increase from the FY 2022 threshold—that would significantly decrease the number of cases that qualify for an outlier payment. This is significant as hospitals already bear significant costs between the DRG payment amount and the outlier threshold, many of them long duration COVID cases. This change will increase the proportion of the cost of care that must be absorbed by hospitals, especially if enhanced payment for these cases ceases. We appreciate that CMS has taken steps to account for some of the pandemic-related factors that may have driven the increase, but which will likely not continue fully in FY 2023. We urge the agency to explain in more detail the factors driving this significant increase in the IPPS high-cost outlier threshold—the largest by far in the past decade. Specifically, we ask CMS to examine its methodology more closely and consider making additional, temporary changes to help mitigate the substantial increases that are still occurring in the outlier threshold.

Coding and Reporting Changes

WSHA supports CMS's efforts to modernize and streamline reporting to better prepare for the current and future public health emergencies. We are concerned about a potential increase to overall reporting burden for hospitals at a time when resources are already being stretched. We ask that addition of new requirements include review of existing requirements to ensure that redundant or obsolete measures and requirements are removed, to minimize increases in general reporting burden. We also ask that CMS clearly communicate any changes in reporting requirements and provide adequate time for hospitals to incorporate new requirements into their workflow.

Thank you for your consideration of our comments. We urge CMS to implement the changes outlined above in the FY 2023 final rule to ensure that Medicare payments for acute care services more accurately reflect the cost of providing hospital care. If you have questions regarding our comments, please contact Andrew Busz, Policy Director Finance, at andrewb@wsha.org.

Sincerely,

Jacqueline Barton True
VP, Rural and Federal Programs
Washington State Hospital Association

Andrew Busz
Policy Director, Finance
Washington State Hospital Association