ALLIANCE FOR
SITE NEUTRAL
PAYMENT REFORM

June 1, 2017

The Honorable Tom Price, M.D.
Secretary of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Seema Verma, MPH
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health & Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, DC 20201

Re: Site Neutral Payment Policies for Outpatient Services

Dear Secretary Price and Administrator Verma:

As members of The Alliance for Site Neutral Payment Reform, we would like to share our recommendations for the Centers for Medicare & Medicaid Services' (CMS) upcoming rulemaking for the CY 2018 Outpatient Prospective Payment System (OPPS) proposed rule. As the new Administration looks for ways to reduce regulatory burdens, modernize the Medicare system, reduce taxpayer spending and provide patients with more health care choices at less cost, we encourage you to consider the savings that could be achieved by expanding site neutral payment policies for outpatient services.

The Alliance for Site Neutral Payment Reform is a coalition of patient advocates, providers, payers, manufacturers and employers who formed in 2015 to advocate for payment parity across site of service in order to decrease Medicare and commercial spending, ensure patients receive the right care in the right setting, lower taxpayer and beneficiary costs and preserve patient access. Since our inception, the Alliance has worked collectively to urge Congress and regulators to advance site neutral payment policies to equalize payments across sites of service for all outpatient services.

As experts in the delivery of care to beneficiaries of the Medicare and Medicaid programs, we trust you are aware that reimbursement rates vary significantly across the Medicare program based solely on the site of service and not the health care service provided. These payment disparities have direct economic consequences on America's health care system through higher patient, employer, taxpayer and Medicare costs. Further, these disparities are a direct outgrowth of increased consolidation of the health care marketplace, which further increases costs by incentivizing investment in care settings that allow for higher Medicare reimbursements. Recent progress has been made toward leveling the playing field to ensure the exact same service is reimbursed at the same payment level despite the delivery setting, but there is much

more to be done. The Alliance urges you to consider the following policy recommendations to help lower costs for patients, provide savings and stability to the Medicare program and promote competition in the health care marketplace.

Expand Site Neutral Payment Policies to All Off-Campus Outpatient Services

Hospital outpatient departments (HOPDs) are paid significantly higher rates under the current OPPS for the exact same services provided in an outpatient physician office setting. Payment policies that support higher reimbursement in the HOPD setting encourage the acquisition of office-based physician practices, further restricting patient access to care in the lower cost community setting. Data continues to demonstrate the negative effects that hospital acquisition of independent physician practices have on costs and access.

- A recent study by Avalere found patients will have increased difficulty in finding independent physicians as hospital ownership of physician practices increased to 1 in 4 in 2015.[1] In the six months from July 2014 to January 2015 alone, 13,000 physician practices were acquired.
- A survey of community-based oncologists concluded cancer clinics have been hit particularly hard with a 172 percent increase in consolidation into hospitals since 2008.[2]
- A Milliman study found the portion of chemotherapy infusions delivered in hospital outpatient departments increased from 15.8 percent in 2004 to 45.9 percent 2014 in the Medicare population.[3]
- According to the Government Accountability Office (GAO), the number of vertically consolidated hospitals and physicians increased from 2007 through 2013. Specifically, the number of vertically consolidated hospitals increased from about 1,400 to 1,700, while the number of vertically consolidated physicians nearly doubled from about 96,000 to 182,000.[4]

We applaud Congress for recognizing the negative consequences unfair payment disparities have on patients, taxpayers and businesses by directing CMS to align payments for certain provider-based off-campus HOPDs with payments to physician practices in the Bipartisan Budget Act of 2015 (BBA). However, the BBA reforms represent only a small step in the right direction. The site neutral payment policy only applies to newly acquired provider-based off-campus facilities, allowing all existing off-campus HOPDs to continue billing at the much higher OPPS rate for the same services. Compounding this issue is a provision included in the 21st Century Cures Act, which further exempts certain facilities from the site neutral payment law.

Our nation's Medicare beneficiaries should not be penalized with higher cost sharing amounts based on an arbitrary grandfathering provision or the name that happens to be on the sign outside the physician office. Patients receiving the same services should incur the same out-of-pocket costs, regardless of the outpatient place of service. The Alliance strongly urges you to apply the site neutral payment policy universally to all off-campus outpatient departments.

Recommendation: Apply site neutral payment policies across all outpatient care settings to eliminate higher reimbursements that encourage hospitals to purchase physician practices in order to increase their revenues and profits.

[1] Avalere, PAI: Physician Practice Acquisition Study: National and Regional Employment Changes, October 2016

[2] Community Oncology Alliance: 2016 Practice Impact Report, October 2016

[3] Milliman, "Cost Drivers of Cancer Care: A Retrospective Analysis of Medicare and Commercially Insured Population Claim Data 2004-2014," April 2016

[4] Government Accountability Office, "Increasing Hospital-Physician Consolidation Highlights Need for Payment Reform, Government Accountability Office," December 2015

Eliminate the Hospital Outpatient Department (HOPD) Facility Fee
Medicare currently pays HOPDs a facility fee and a professional fee for services rendered. These fees account for a large portion of the disparity in payment between HOPDs and the physician office setting.

- A study published by The National Institute of Health Care Reform[5] found the average price for magnetic resonance imaging (MRI) of a knee was approximately $900 in hospital outpatient departments compared to approximately $600 in physician offices or freestanding imaging centers.
- According to the GAO, the average hospital outpatient department price for a basic colonoscopy was $1,383 compared to $625 in community outpatient settings.
- Even a mid-level evaluation and management (E/M) office visit for an established patient was $51 higher for Medicare when the service was performed in an HOPD instead of a freestanding physician's office[6].

Recommendation: The Secretary has broad authority in setting payment rates for hospital outpatient services. We encourage you to eliminate payment of facility fees to better align reimbursement rates for similar services despite the setting and lower out-of-pocket costs for Medicare beneficiaries.

Require Attestation for Provider-Based Hospital Outpatient Departments (HOPDs)
Currently, CMS does not require hospitals to attest that their off-campus provider-based facilities meet requirements for receiving higher OPPS payments. Just last year, the Office of the Inspector General (OIG) reviewed CMS' oversight of provider-based billing and found that more than three quarters of the 50 hospitals reviewed that had not voluntarily attested for all their off-campus provider-based, owned off-campus facilities did not meet at least one requirement for higher OPPS reimbursement.[7] As referenced earlier, Medicare often pays more than 50 percent more for services performed in provider-based facilities than for the same services performed in freestanding facilities. With Medicare patients responsible for copayments of 20 percent, the increased cost to both patients and Medicare for services provided in non-compliant facilities could be substantial. By expanding site neutral payment policies, CMS could significantly reduce unnecessarily high spending for both beneficiaries and Medicare.

Recommendation: The Alliance recommends CMS institute mandatory attestation for all provider-based hospital outpatient departments to protect patients and Medicare from overpaying for services provided in non-compliant facilities.

Educate Beneficiaries of Cost Differential by Care Setting
The transition to Medicare is multifaceted and can be challenging, especially for older Americans. Medicare beneficiaries must select a plan and decide to enroll in a prescription drug plan and/or supplemental coverage. Medicare's website, www.Medicare.gov, addresses many of these topics in an effort to help beneficiaries understand the choices available to them and their potential costs. Beneficiaries can scroll through a list of covered services and quickly see how often a service is covered, and what cost sharing might be involved. However, CMS does not include information related to costs associated with different care settings. This is a missed opportunity to educate patients on how they can achieve lower out-of-pocket costs if they have a choice to receive care in an outpatient physician office setting.

[5] Location, Location, Location: Hospital Outpatient Prices Much Higher than Community Settings for Identical Services, The National Institute for Health Care Reform (NIHCR): Published online June 2014.
[6] GAO, Medicare: Increasing Hospital-Physician Consolidation Highlights Need for Payment Reform, December 2015.
[7] OIG, "CMS is Taking Steps to Improve Oversight of Provider-Based Facilities, But Vulnerabilities Remain," June 2016

For example, the Medicare Payment Advisory Commission (MedPAC) has reported that beneficiary cost sharing in the HOPD setting is more than double compared to cost sharing patients that pay for services in a physician office for mid-level evaluation and management (E/M) visits. Furthermore, program costs are nearly three times higher, increasing costs to beneficiaries and American taxpayers.[8]

	Physician Office Rate	Total HOPD Rate Including Facility Rate
Program Payment	$39.76	$98.70
Beneficiary Cost Sharing	**$9.94**	**$24.68**
Total Payment	$49.70	$123.38

The 21st Century Cures Act included a provision to provide additional transparency by directing CMS to create a searchable website for patients to compare the cost of services provided in a hospital outpatient department with the cost of services provided in an ambulatory surgical center. However, Medicare patients should have full and transparent access to the varying copayment amounts and cost sharing requirements for all outpatient services provided in all outpatient care settings, including the physician office setting.

Recommendation: The Alliance urges CMS to better educate beneficiaries about variations in cost by site of care and the impact on their out-of-pockets costs.

The Alliance appreciates the Administration's commitment to moving toward a more patient-centered health care system. Advancing the policies outlined above will help achieve that goal through lower costs for patients, stability for the Medicare program and promoting competition across the health care marketplace without jeopardizing patient access to care or reducing patient choice.

We would welcome the opportunity to discuss these policies in more detail with you and your staff. Please contact us at info@siteneutral.org to arrange a mutually convenient date and time for a more substantive discussion. We look forward to working with you to improve health care for all Americans and protect access to quality, cost effective, community-based care.

Sincerely,

The Alliance for Site Neutral Payment Reform
www.siteneutral.org

[8] MedPAC Report to Congress, June 2013