

Congress of the United States
House of Representatives
Washington, DC 20515-3302
January 7, 2014

Ms. Marilyn Tavenner
Administrator & Chief Operating Officer
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: CMS CY2014 final rules for physician payments, hospital outpatient and ambulatory surgical center payments.

Dear Administrator Tavenner:

As a Congresswoman and nurse, I am deeply concerned about the latest Medicare reimbursement reductions to cancer treatment delivered by community oncology providers. It is unimaginable how the Centers for Medicare & Medicaid Services (CMS) will cut reimbursement for administering chemotherapy by over 7 percent in 2014 in the community cancer center setting — without any relationship to providers' costs, which are rising — while actually increasing reimbursement to hospitals. Combined with CMS' ill-advised decision to apply the Medicare sequester to the underlying cost of cancer drugs, it is clear to me that CMS policy is designed to consolidate all cancer care into the more expensive hospital setting. Patient care is being adversely impacted and I am very troubled that patients are losing access to affordable cancer care, something that is virtually impossible for CMS to track.

I take great exception with Deputy Administrator Blum's recent public comments, which were not backed by any Medicare data, that CMS policy is not adversely impacting cancer care in this country. The Charlotte News & Observer ran a series of articles documenting the consolidation of cancer care in North Carolina and the resultant impact on costs, to both patients and payers. My office has analyzed numerous reports, including those by Milliman, The Moran Company, and Avalere, quantifying the consolidation of cancer care across the country and the higher costs to Medicare, seniors, and all taxpayers. Additionally, the current issue of the New England Journal of Medicine reports on a survey showing that 8 out of 10 oncologists are struggling with drug shortages, forcing delays in patient treatment, switches to inferior therapy, and increases in treatment costs borne by patients. I believe that the root cause of cancer drug shortages is flawed CMS policy and the imbalances it has created in our nation's cancer delivery system.

Just a few weeks ago, I had a group of community oncologists in my Capitol Hill office. One physician told me that the Medicare sequester had forced him to make a decision about his practice, to either declare bankruptcy or merge into the hospital. He decided on the latter and now the hospital is forcing him to divide the chemotherapy regimen provided to patients with non-Hodgkin's lymphoma (the drugs are typically delivered together) so that patients receive the generic drugs in his facility but have to travel to receive the brand drug because the hospital can charge the patient \$6,300 more per dose in their 340B facility. Additionally, every oncologist in my office said they were talking to their hospitals about mergers because they cannot survive the continuous payment cuts made by CMS.

It is very troubling that this trend seems to be impacting other specialties, including ambulatory surgical centers. For example, under this final rule, hospitals will be reimbursed at \$669.90 for epidural procedures performed in the hospital setting; whereas, in the office setting, after removing the portion designated for the physician professional fee, the office practice expense will be reimbursed at \$30.28 to \$34.36. This is an astronomical 1931% to 2312% higher payment in the hospital setting.

I will continue to push for passage of my bill, the Cancer Patient Protection Act (H.R. 1416) to stop CMS from applying the sequester to cancer drugs. Additionally, I urge CMS to immediately stop the reimbursement reductions to chemotherapy administration and related services, which CMS actually made worse in the final rule of the 2014 Medicare Physician Fee Schedule. Failure to do so will add to the irreversible damage CMS is doing to our country's cancer patients as they seek efficient and effective cancer treatment.

Further, please provide the rationale for this rule, and the impact it will have on community cancer centers across the county.

Sincerely,



Renee L. Ellmers
Member of Congress

Cc:

Speaker John Boehner

Majority Leader Eric Cantor

Majority Whip Kevin McCarthy

Congressman Charlie Dent

Congressman Steve Israel

Congressman Lois Capps

Congressman Richard Hanna

Congressman Fred Upton

Congressman Henry Waxman

Congressman Dave Camp

Congressman Sander Levin