

March 20, 2006

Mark McClellan, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Blvd.
Baltimore, MD 21244-1850

Re: File code CMS-1485-P

Dear Dr. McClellan:

The Medicare Payment Advisory Commission (MedPAC) welcomes the opportunity to comment on the Centers for Medicare & Medicaid Services (CMS) proposed rule entitled *Medicare Program; Prospective Payment System for Long-Term Care Hospitals, RY 2007*, Federal Register, Vol. 71, No. 18, p. 4648 (January 27, 2006). We appreciate your staff's work on this prospective payment system (PPS), particularly given the competing demands on the agency.

The Commission has shared CMS's concerns about long-term care hospitals (LTCHs) for a number of years. We both have observed rapid growth in the number of these facilities and in Medicare spending for them. In our own work for our March 2006 report to the Congress, we found a high degree of profitability—an estimated margin of almost 8 percent for 2006—and other indications that payments were more than adequate. Based on the evidence, Commissioners recommended a zero update for rate year 2007. Your proposal to eliminate the update to LTCH payments is consistent with our recommendation.

CMS also has proposed changes in the short stay outlier policy for the LTCH PPS. We believe short-stay outlier policies for prospective payment systems are reasonable to contemplate. Short-stay outlier policies protect the Medicare program by reducing the incentive for providers to generate excess profits by admitting short-stay patients. At the same time, however, we believe the proposed short-stay outlier policy is too severe. The proposed policy affects a substantial percentage of LTCH patients. Furthermore, over time the policy would continue to affect a large percentage of admissions regardless of the admission policies of LTCHs.

The proposed policy also does not address the underlying problem in this setting. MedPAC has recommended the development of patient and facility criteria.¹ For example, patient level criteria could include national admission standards (such as specific clinical characteristics and treatments) as well as discharge criteria. Facility characteristics could include requirements for multidisciplinary care teams and the percentage of cases meeting an established severity of illness criteria. Therefore,

¹ Medicare Payment Advisory Commission. 2004. *Report to the Congress: New approaches in Medicare*. Washington, DC: MedPAC.

we strongly urge CMS to move forward with MedPAC's recommendations to implement patient and facility criteria. Such criteria would better target LTCH care to beneficiaries who need the level of care provided by LTCHs and provide better value to the program. We believe criteria are being developed that could serve as a starting point for CMS to propose national criteria for public comment.

If you have any questions or require clarification of our comments, please feel free to contact Mark Miller, MedPAC's Executive Director.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn M. Hackbarth". The signature is fluid and cursive, with the first name being the most prominent.

Glenn M. Hackbarth
Chairman