

September 2, 2008

Kerry N. Weems, Acting Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1404-P  
Room 445-G  
Hubert H. Humphrey Building  
200 Independence Avenue, SW Washington, DC 20201

**Re: CMS-1404-P – Medicare Program; Proposed Changes to the Ambulatory Surgical Center Payment System and CY 2009 Payment Rates**

My name is \_\_\_\_\_ and I am a \_\_\_\_\_ at \_\_\_\_\_, an ambulatory surgery center (ASC) located in \_\_\_\_\_. Our ASC provides care to ##### Medicare beneficiaries every year. We provide a high-quality, cost-effective, customer-focused and preferred alternative to receiving outpatient surgical care. ASCs have a strong record of quality and safety and Medicare beneficiaries prefer the flexibility and convenience we offer compared to other outpatient settings. I appreciate the opportunity to submit the following comments to the CMS proposed payment changes for the CY 2009 ASC payment system.

Before implementing any final payment decisions, CMS should ensure that beneficiary access to ASCs is not endangered. Our ASC specializes in \_\_\_\_\_, which enables us to routinize operations and provide the most efficient and highest quality of care. Unfortunately, it also means that we cannot cross-subsidize losses from one procedure or line of business with gains in another when CMS payment policies result in significant payment reductions. I urge the agency to exercise extreme caution in implementing policies that have a disproportionate affect on providers largely unable to respond to changes in payment by means other than changing their payer mix. In this regard, I am extremely concerned with CMS' proposed relative weight rescaling and the decision to update ASC payment rates using the consumer price index (CPI-U).

My concern is that the CMS proposed approach produces a very negative impact on our ASC. The redistribution of weights among services is more difficult for the ASC industry to manage given the inability to offset losses in one service line with gains in another, as noted above. However, this problem has broader impact than the financial viability of an industry. If ASCs are no longer able to provide some services due to Medicare payment decreases, at a time when we are experiencing actual increased costs, beneficiary access to care will be reduced.

CMS must cease its proposed rescaling of the ASC relative weights as the proposal will further exacerbate the gap between ASC and OPPS payments. CMS has insufficient data on which to base the calculation and scaling inappropriately reduces payments to ASCs, which already receive substantially lower reimbursement for the exact same procedure than the HOPD.

In aligning the ASC and OPPS payment rates, CMS' goal should be to facilitate Medicare beneficiaries' ability to make direct comparisons of the cost of receiving care in competing outpatient surgical settings.

CMS should adopt the hospital market basket as the measure for updating ASC cost increases, rather than using the CPI-U. We believe the statutory changes made in the Medicare Modernization Act of 2003, in directing the establishment of the new ASC payment methodology, give CMS the authority to use the hospital update methodology. Using the hospital market basket update will help make the OPPS and ASC payment systems be linked in a fair and appropriate manner.

It is too early to tell what effects the size of the ASC payment reductions implemented last year by CMS are having on beneficiary access to ASC services. I hope CMS will avoid implementing additional policies that will further decrease Medicare reimbursement. We provide life-saving surgical procedures to Medicare beneficiaries at a significant cost saving to the Medicare program and its beneficiaries. CMS payment policies should encourage greater utilization of ASCs rather than erode our financial situation at the expense of fair competition among outpatient surgical settings.

Again, thank you for your consideration of my comments to this important rule.

Sincerely,

[Name]