Congress of the United States
Washington, DC 20515

September XX, 2017

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Verma:

The Centers for Medicare & Medicaid Services (CMS) recently proposed in the calendar year 2018 Medicare Outpatient Proposed Rule to cut drastically Medicare hospital payments for hospitals that participate in the Health Resources and Services Administration's 340B Drug Pricing Program. We are deeply concerned that this misguided policy will directly limit the ability of hospitals to offer necessary services to vulnerable patients and their communities.

Under the 340B program, eligible hospitals and other covered entities receive discounts on the purchase of prescription drugs. Savings generated from these discounts are reinvested into programs that enhance patient access to care, including but not limited to, providing free or reduced-priced prescription drugs to vulnerable patients. These activities are squarely in line with Congress' intent for the 340B program, "to stretch scarce Federal resources as far as possible, reaching more eligible patients and providing more comprehensive services." Resources generated from the 340B program have made a significant difference in hospitals' ability to offer critical care to patients, particularly in underserved and rural communities. In addition, the 340B program has been a sound federal investment. Other than modest appropriations to administer the program, the 340B program is self-sustaining in that the financial support hospitals receive is derived from drug manufacturer discounts, rather than through additional federal investments. Unfortunately, CMS' proposed cut in reimbursement for 340B hospitals under the outpatient prospective payment system puts all of the program's many benefits at risk.

Specifically, CMS proposes to pay for separately payable, non pass-through drugs (other than vaccines) purchased through the 340B drug pricing program at the average sales price (ASP) minus 22.5 percent, rather than the current rate of ASP plus 6 percent. While the agency proposes to implement the proposal in an overall budget-neutral manner within the outpatient prospective payment system (OPPS), money currently going to vulnerable 340B hospitals (as much as $900 million[1]) would be distributed to all hospitals paid under OPPS.

At the same time, we believe CMS' assertion that this proposal would address high drug costs for Medicare beneficiaries is flawed and raises many concerns. It is unclear that this proposal would actually reduce drug costs. While CMS states that its goal is to reduce Medicare beneficiaries' drug copayments at 340B hospitals,[2] many Medicare patients do not pay their own copayments.

[1] CMS-1678-P, Proposed Rule, Medicare Hospital Outpatient Prospective Payment Program, p. 616 (Federal Register public inspection version)
[2] Ibid, p. 305.

According to the Medicare Payment Advisory Commission's analysis, 86 percent of all Medicare beneficiaries have supplemental coverage where their copayments are paid by others. Thirty percent have their copayments paid for by a public program, such as Medicaid, or a Medigap plan.[3] We believe this recommendation would not benefit many Medicare beneficiaries, including dually eligible Medicare beneficiaries.

Given the important role that the 340B program plays in our communities, we strongly urge CMS to abandon this proposal and redirect its efforts toward actions to address the cost of drugs via other policies that would not harm our constituents.

Thank you for your attention this this matter. We welcome the opportunity to discuss this issue further and also to work with you to find meaningful solutions to make prescription drugs more affordable for all Americans.

Sincerely,

MIKE THOMPSON
Member of Congress

DAVID B. McKINLEY, P.E.
Member of Congress

[3] MedPAC, June 2016 Databook, Section 3, p. 27.