



Saving and improving lives with transplantation.

American Society of Transplant Surgeons®

June 16, 2022

Ms. Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8013
Baltimore, MD 21244-1850

RE: Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Proposed Policy Changes and Fiscal Year 2023 Rates; Quality Programs and Medicare Promoting Interoperability Program Requirements for Eligible Hospitals and Critical Access Hospitals; Costs Incurred for Qualified and Non-Qualified Deferred Compensation Plans; and Changes to Hospital and Critical Access Hospital Conditions of Participation

Dear Administrator Brooks-LaSure:

On behalf of the American Society of Transplant Surgeons (ASTS), I am pleased to have the opportunity to comment on the 2023 Inpatient Prospective Payment System Proposed Rule (the IPPS Proposed Rule). ASTS is a medical specialty society representing approximately 1,900 professionals dedicated to excellence in transplantation surgery. Our mission is to advance the art and science of transplant surgery through patient care, research, education, and advocacy.

It is our understanding that the IPPS Proposed Rule would increase inpatient PPS payment rates by 3.2% in FY 2023. However, the Proposed Rule would also cut Disproportionate Share Hospital (DSH) payments by about \$800 million; decrease outlier payments by 1.8 percentage points; and end the Medicare-dependent hospital and low-volume adjustment programs, which expire on Sept. 30, 2022 under the law. According to an AHA analysis, hospitals would actually see a net decrease of \$0.3 billion in Medicare payment for hospital inpatient services in FY 2023 as compared to FY 2022 if the IPPS Proposed Rule is implemented without change.

Considering these projections, we are concerned about the potential impact of the IPPS Proposed Rule on hospital operations, especially in light of the extraordinary financial pressures brought to bear on hospital finances as the result of COVID-19 critical labor shortages, massive increases in cost due to inflation and large increases in health care staffing costs. We are particularly concerned about the potential impact of the proposed changes in uncompensated care and disproportionate share hospital (DSH) payments. Based on CMS' analysis, across all projected DSH eligible hospitals, the IPPS Proposed Rule would result in a decrease of approximately 7.82 percent from FY 2022 in uncompensated care and DSH payments (from approximately \$6.629 billion to approximately \$7.192 billion), and large teaching hospitals (with 100+ residents) would experience an even larger payment decrease (8.99 percent). Transplant programs are often operated by large teaching institutions, and reductions of this magnitude

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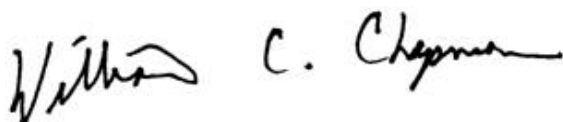
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have the potential to substantially impact transplantation throughout the country. These proposed cuts to DSH hospitals, outlier payments and Medicare-dependent hospitals and low-volume adjustment programs may reasonably be expected to have a disproportionate and deleterious impact on historically underserved and vulnerable populations. Increasing access to transplantation and equity in the provision of transplant services are critically important strategic goals of the transplant community, and both of these goals will be put at risk by the proposed rule. As currently written, the proposal will disincentivize the utilization of organs at risk of discard, which would decrease transplant options for all, while also decreasing equity and access to care for our most vulnerable patient populations.

We are also particularly concerned that the proposed modification of the threshold for outlier payments may adversely impact transplantation by disincentivizing acceptance of hard-to-place organs. In order to be eligible for outlier payments, the costs of a case must exceed a fixed cost threshold. CMS proposes to adopt an outlier threshold for FY 2023 of \$43,214, an increase of 39.5 percent (\$12,266) from the FY 2022 amount. We note that, in a Request for Information (RFI) earlier this year, CMS emphasized the pressing need to increase the availability of transplantation and especially the need to increased utilization of hard-to-place organs.¹ A comprehensive assessment conducted by the National Academies of Sciences, Engineering and Medicine (NASEM)² recently reinforced the need to increase transplantation of hard to place organs. However, transplantation of these organs entails significantly higher costs than transplantation of other organs—costs that may significantly exceed IPPS payments. For this reason, a policy that substantially increases the outlier threshold has the potential to dissuade transplant programs from accepting hard-to place organs, thereby increasing long term costs overall and limiting access to transplantation in a manner inconsistent with CMS’ overall policy objectives as described in the RFI.

ASTS appreciates the opportunity to comment on the IPPS Proposed Rule. If you need any further information regarding our comment or have any questions, please contact Emily Besser, ASTS’ Associate Director for Advocacy, at emily.besser@asts.org.

Sincerely yours,

A handwritten signature in black ink that reads "William C. Chapman". The signature is written in a cursive style with a large, stylized "W" and "C".

William C. Chapman, MD, FACS
President
American Society of Transplant Surgeons

¹ Request for Information; Health and Safety Requirements for Transplant Programs, Organ Procurement Organizations, and End-Stage Renal Disease Facilities 86 *Federal Register* 68594 (December 3, 2021)

² NASEM “*Realizing the Promise of Equity in the Organ Transplantation System* (2022). <http://nap.edu/26364>.