

Congress of the United States
Washington, DC 20515

June 12, 2007

Ms. Leslie V. Norwalk, Esquire
Acting Administrator
Centers for Medicare and Medicaid Services (CMS)
200 Independence Avenue, SW
Washington, DC 20201

RE: CMS Proposed Inpatient Prospective Payment Rule

Dear Ms. Norwalk:

We write to express our strong opposition to two provisions in the proposed Inpatient Prospective Payment System (IPPS) regulation. We respectfully request that these provisions be excluded from the final regulation.

The first provision would impose a 2.4 percent cut to all operating and capital payments for inpatient hospital services for Medicare patients based on the misguided premise of a so-called "behavioral offset." This unwarranted proposal would result in payment reductions for hospital services in both FY08 and FY09, cutting \$24 billion dollars in operating and capital payments over the next five years.

The second proposal would reduce payments to hospitals in urban areas for capital-related costs for inpatient hospital services, cutting payments by nearly \$1 billion over the next five years. We urge you to eliminate both provisions when the final regulation is published.

Please allow us to further explain our strong objection to these changes:

- 1. Cuts due to a "Behavioral Offset."** The suggestion to cut hospital operating and capital payments is based on the suggested adoption of a classification system called Medicare Severity Diagnosis-Related Groups (MS-DRGs). This change is grounded on the belief that with the implementation of the MS-DRGs, hospitals would change coding practices, resulting in higher payments. Not even in the initial years of the IPPS was coding change found to be of the magnitude of CMS's proposed FY08 and FY09 cuts. MS-DRGs are simply a refinement of a classification system that hospitals have been using for 23 years. Hospitals are already experts in coding for payment; they have little ability to change their classification and coding practices.

The rationale for the reduction is also based on the transition of hospitals in Maryland to a completely new type coding system called All Patient Refined DRGs (APR-DRGs). We have concerns with the methodology of reaching this conclusion. Maryland's hospitals are paid under a state rate-setting

system where an incentive to code accurately did not significantly affect what a hospital was paid. The classification system recently adopted by Maryland is much more complicated than what CMS is proposing and changed the coding incentives for Maryland hospitals. Generalizing the Maryland experience to the rest of the nation's hospitals is an "apples-to-oranges" comparison.

CMS is not mandated by law to impose a behavioral offset in the IPPS regulation, yet has chosen to do so. There is no precedent in other payment systems for making a prospective adjustment of this magnitude-without any empirical evidence of actual and measurable changes in coding. While CMS has, on occasion, made adjustments for coding in implementing new payment systems, these changes generally have been made based on actual experience. When implementing a new physician fee schedule payment system in 1992, CMS (then the Health Care Financing Administration) imposed a behavioral offset on physician services, primarily to offset predicted increases in the volume of services. *We later learned that the offset was much higher than was necessary, and the reduction was never returned to the physicians adversely affected by those cuts.*

2. Cuts to Capital-Related Payments. For years, the Medicare program has paid for its share of the capital-related costs of inpatient hospital services. The proposed rule would freeze capital payments for all hospitals in urban areas and would eliminate additional capital payments made to large hospitals in urban areas. Taken together, these cuts would amount to nearly \$1 billion over the next five years.

These changes in capital payments would make it much more difficult for hospitals to purchase advanced technology and equipment and could have the effect of slowing clinical innovation in the hospitals most likely to conduct cutting edge research. Additionally, such a reduction could slow the adoption of much needed health information technology. Hospitals make long-term commitments to capital acquisitions. This proposal amounts to pulling the rug out from under their financial obligations to maintain and improve their physical facilities for patients.

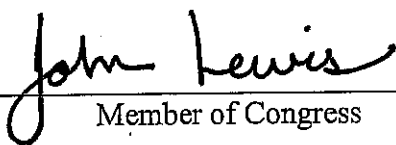
Congress recently opposed a component of the administration's fiscal year 2008 budget proposal that would have significantly reduced hospital payments. As you know, both the FY08 House and Senate budget resolutions reinforced this sentiment by rejecting those cuts. The administration's attempt to achieve payment reductions of this magnitude through the regulatory process is equally unacceptable. We believe this action circumvents Congress' intent that hospital services for Medicare patients not be reduced.

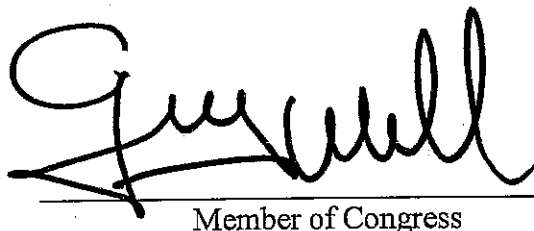
In closing, we would like to reiterate our belief that CMS's decision could serve to jeopardize hospitals' ability to continue to care for patients. CMS's behavioral offset is unnecessary, and will result in devastating cuts to hospital services for our constituents.

CMS's proposal to cut capital-related payments would create significant financial difficulties for many of our most innovative hospitals. We strongly support the elimination of these provisions from your final regulation.

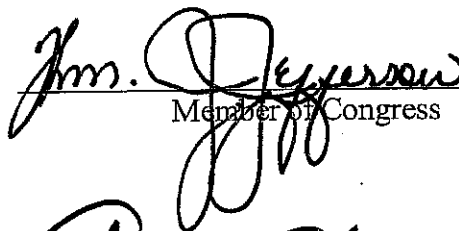
Both CMS and Members of Congress share the goal of serving the American public and helping those most in need. We hope that you will give strong consideration to the bipartisan concerns outlined in this letter.

Sincerely,


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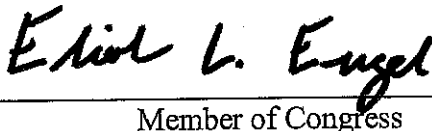

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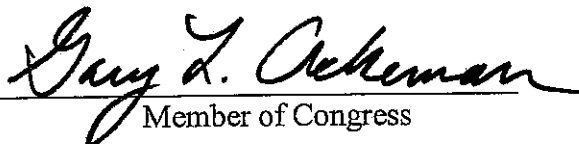

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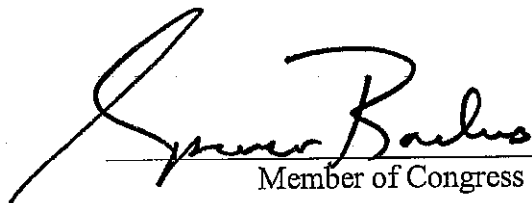

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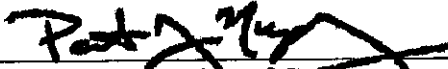
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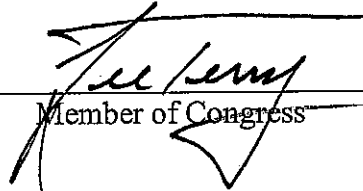

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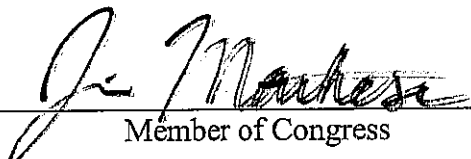

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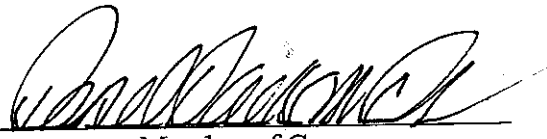
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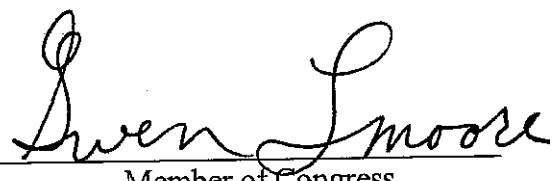
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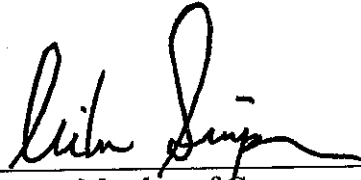
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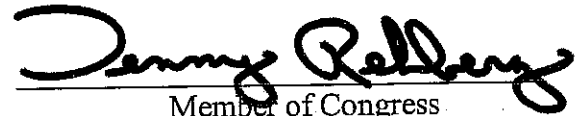
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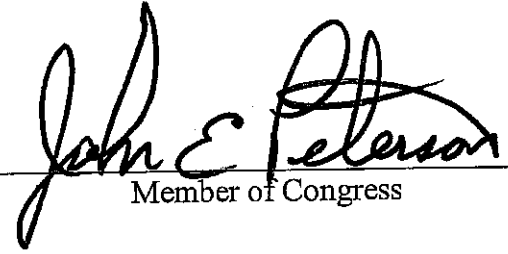
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207.	Rick	Renzi	(AZ)
208.	Silvestre	Reyes	(TX)
209.	Tom	Reynolds	(NY)
210.	Ciro	Rodriquez	(TX)
211.	Mike	Rogers	(AL)
212.	Harold	Rogers	(KY)
213.	Dana	Rohrabacher	(CA)
214.	Peter	Roskam	(IL)
215.	Mike	Ross	(AR)
216.	Steve	Rothman	(NJ)
217.	Lucille	Roybal-Allard	(CA)
218.	Bobby	Rush	(IL)
219.	Tim	Ryan	(OH)
220.	John T.	Salazar	(CO)
221.	Bill	Sali	(ID)
222.	Loretta	Sanchez	(CA)
223.	Jim	Saxton	(NJ)
224.	Adam	Schiff	(CA)
225.	Allyson	Schwartz	(PA)
226.	David	Scott	(GA)
227.	Robert C.	Scott	(VA)
228.	Jose	Serrano	(NY)
229.	Pete	Sessions	(TX)
230.	Joe	Sestak	(PA)
231.	Christopher	Shays	(CT)
232.	Carol	Shea-Porter	(NH)
233.	Bill	Shuster	(PA)
234.	Mike	Simpson	(ID)

235.	Albio	Sires	(NJ)
236.	Louise M.	Slaughter	(NY)
237.	Chris	Smith	(NJ)
238.	Vic	Snyder	(AR)
239.	Mark	Souder	(IN)
240.	Zachary	Space	(OH)
241.	Cliff	Stearns	(FL)
242.	Bart	Stupak	(MI)
243.	Betty	Sutton	(OH)
244.	John	Tanner	(TN)
245.	Ellen	Tauscher	(CA)
246.	Gene	Taylor	(MS)
247.	Lee	Terry	(NE)
248.	John F.	Tierney	(MA)
249.	Edolphus	Towns	(NY)
250.	Stephanie	Tubbs Jones	(OH)
251.	Michael R.	Turner	(OH)
252.	Mark	Udall	(CO)
253.	Tom	Udall	(NM)
254.	Fred	Upton	(MI)
255.	Chris	Van Hollen	(MD)
256.	Nydia	Velazquez	(NY)
257.	James T.	Walsh	(NY)
258.	Tim	Walz	(MN)
259.	Zach	Wamp	(TN)
260.	Debbie	Wasserman Schultz	(FL)
261.	Maxine	Waters	(CA)
262.	Diane E.	Watson	(CA)
263.	Anthony	Weiner	(NY)
264.	Peter	Welch	(VT)
265.	Ed	Whitfield	(KY)
266.	Heather	Wilson	(NM)
267.	Lynn	Woolsey	(CA)
268.	David	Wu	(OR)
269.	John	Yarmuth	(KY)