

United States Senate

WASHINGTON, DC 20510

August 5, 2010

Mr. Donald M. Berwick, M.D.
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Berwick:

We are writing to request your assistance in addressing Medicare payments to ambulatory surgical centers (ASCs). On behalf of the many ASC's in our states, we ask the Centers for Medicare and Medicaid Services (CMS) to use its existing discretionary authority to make an important modification to the ASC payment system -- to update ASC payments using the hospital market basket index rather than the current consumer price index for urban consumers (CPI-U). Recently, CMS proposed to update payments to ASCs by 1.6% (CPI-U) for the 2011 payment year. However, this would in effect freeze payments to ASCs due to application of a 1.6% productivity adjustment beginning next year.

The use of the CPI-U as the basis for Medicare's annual updates to ASC payments encompasses two problems:

- First, the CPI-U is an inappropriate index upon which to rely for the purpose of updating ASC payment rates. The CPI-U is a widely used measure of price inflation that is based on a sample of prices on a broad mix of good and services, such as housing, food and apparel. In its March 2010 report to Congress, the Medicare Payment Advisory Commission stated its concern that CPI-U may not be a good proxy for ASC costs, such as medical equipment and supplies, clinical staff and malpractice insurance.
- Second, the CPI-U as the annual ASC inflator is a significant contributing factor to the growing gap between ASC and hospital outpatient department payment rates. This divergence in rates occurs because hospital payments are updated on the basis of the hospital market basket, an index that is historically higher than the CPI-U.

In 2008, 3.3 million Medicare beneficiaries requiring outpatient surgical services, including screening services, received those services in ASCs. Medicare beneficiaries choose to receive surgical services in ASCs because they are convenient and safe, offer high-quality services with low cost-sharing, and often allow a patient to receive services from a physician with whom he/she has an established relationship.

We believe that the use of the hospital market basket to update ASC payments offers the benefit of more closely aligning the ASC payment system with the hospital outpatient prospective payment system as was intended when the ASC payment system underwent substantial change in 2008.

We hope that you will accept our recommendation to revise the ASC update factor beginning in 2011. Thank you for your consideration of our request.

Sincerely,




Senator Ron Wyden



Senator Mike Crapo



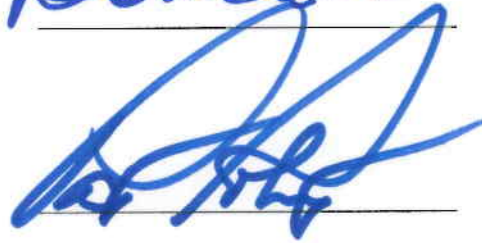
Senator Max Baucus



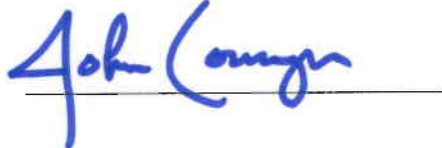
Senator Ben Rayburn



Senator Mary Landrau



Senator Dan Claitor



Senator John Cooney



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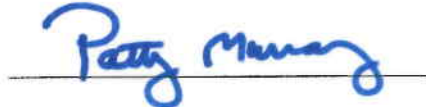
Senator Sherrod Brown



Senator Jim Lick



Senator Tom Kyr



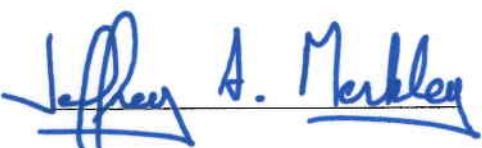
Senator Patty Murray



Senator Tom Coburn



Senator Jerry Moran



Jeffrey A. Merkley



Senator Al Franken

Kay Bailey Hutchison

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Bill Nelson

Lamar Alexander
