



Sept. 2, 2020

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
Attention: CMS-1716-P  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Dear Administrator Verma:

On behalf of the New Jersey Hospital Association (NJHA) and its over 400 hospital and health system members, I write to you today to express our organization's grave concerns with the timing and notice of the interim final rule, ***Medicare and Medicaid Programs, Clinical Laboratory Improvement Amendments, and Patient Protection and Affordable Care Act: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency***. The rule, which was displayed for public inspection on August 25, is scheduled to become effective immediately upon its publication in the Federal Register on September 2.

The rule includes new, burdensome COVID-19 reporting requirements that, if not followed, could result in an offending hospitals' removal from the Medicare program. This policy represents a disproportionate overreaction and could lead to the financial ruin of countless essential health care organizations. This is exacerbated by the lack of clarity and ever-changing nature of the requirements themselves; since February the federal government has made at least six changes to how hospitals are required to report COVID-19 data. The reporting requirements, and especially the penalties for noncompliance with those requirements, are set to become official policy without the standard opportunity for comment through appropriate administrative procedures.

At NJHA, we are committed to providing our local, state, and federal health departments with accurate, useful public health data – especially in the face the ongoing COVID-19 pandemic. Despite being located at the epicenter of the crisis, and despite numerous changes to data reporting requirements, our member hospitals have remained diligent and responsive to all data requests. We remain fully committed to partnering with regulators and public health officials to ensure that the government gets the data it needs to respond to the pandemic. However, threatening our nation's frontline hospitals and health systems with termination of their Medicare participation as a penalty for noncompliance is at once heavy-handed, unnecessary, and irrational.

The Honorable Seema Verma (cont.)

Sept. 2, 2020

Page 2

Since the beginning of the year, U.S. hospitals and health systems have remained at the forefront of the battle against the novel coronavirus, even as the pandemic has created unprecedented rapidly-changing reporting requirements, the severity of the penalty in the interim final rule is particularly inappropriate in the face of the COVID-19 pandemic.

We insist that CMS reverse the interim final rule immediately, and respectfully request that future proposals of this nature follow established administrative protocol.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cathleen D. Bennett', with a large initial 'C' and several loops.

Cathleen D. Bennett, Esq.

President & CEO

New Jersey Hospital Association