

Congress of the United States
Washington, DC 20515

The Honorable Kathleen Sebelius
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sebelius:

We respectfully request your assistance with an urgent issue which threatens the ability of rural hospitals to continue serving patients throughout Nebraska and across the country. Specifically, we would ask the Department of Health and Human Services rescind or revise recent changes contained in the Outpatient Prospective Payment System (OPPS) final rule for calendar years 2009 and 2010. These rules attempt to clarify existing physician supervision requirements. However, they have instead created onerous new restrictions on the ability of small hospitals to treat Medicare beneficiaries on an outpatient basis.

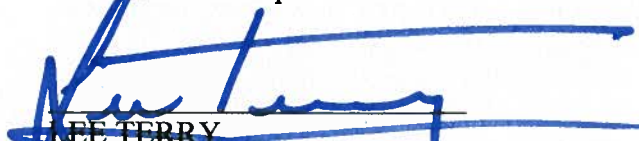
Although the Centers for Medicare and Medicaid Services (CMS) intended the 2010 OPPS final rule to clarify existing policy, the language contained in this regulation has essentially mandated a physician with hospital privileges be present and immediately available at all times for numerous outpatient services, including observation. Since its effective date of January 1, 2010, it has become clear this policy change prevents many small, rural hospitals from providing outpatient services to seniors most in need of ready access to care.


This change to longstanding policy is not required under federal law and was not the intention of Congress. In fact, this change directly contradicts CMS regulations for critical access hospitals (CAHs), which recognize the severe shortage of rural physicians and importance of local access to care by requiring a physician be on-call and within thirty minutes of the hospital at all times, rather than physically on the premises. Due to this new OPPS provision, hospitals are having a very difficult time meeting the rule's requirements and will likely be forced to discontinue providing outpatient services. This will, in turn, compromise access to care and increase costs as patients seek care away from their home community hospital.


Thank you for your prompt attention to this matter. We appreciate your concern, and look forward to working with you to ensure Medicare payment policy adequately balances quality, safe care with the unique needs of rural hospitals and patients.

Sincerely,


ADRIAN SMITH
U.S. House of Representatives


JEFF TERRY
U.S. House of Representatives


MIKE JOHANNNS
United States Senate


JEFF FORTENBERRY
U.S. House of Representatives