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November 28, 2013

VIA EMAIL

Marilyn Tavenner
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1599-IFC, Mail Stop C4-26-05
7500 Security Boulevard, Baltimore MD
21244-1850

Re: CMS-1599-IFC
Medicare Program: FY 2014 Inpatient Prospective Payment Systems: Changes to Certain Cost reporting Procedures Related to Disproportionate Share Hospital Uncompensated Care Payments

Dear Ms. Tavenner:

We are writing on behalf of our client, Avanti Hospitals, to comment on the referenced Interim Final Rule with Comment Period. Specifically, we are commenting on the calculation of Factor 3 used in the calculation of a hospital's Medicare Disproportionate Share ("DSH") adjustment (the hospital's relative uncompensated care amount) for hospitals that had short cost reporting periods during 2011.

Two of the Avanti hospitals, Memorial Hospital of Gardena (provider number 05-0468) and Community and Mission Hospital (provider number 05-0091), changed their Medicare cost reporting year end dates during 2011. The data published by CMS in connection with both the proposed inpatient prospective payment system ("IPPS") rule and the final IPPS rule for 2014 used only data for a short (less than 12 month) cost reporting period ending on December 31,

2011 for each hospital. As a result, less than 12 months of Medicaid days for each hospital was used in computing Factor 3, significantly reducing each hospital's Medicare DSH payments.

As discussed below, there are reasonable alternative 12-month cost reporting periods that should be used for each hospital in order to ensure that Factor 3 is based on a 12-month cost reporting period as required by the IPPS Final Rule for 2014.

1. Memorial Hospital of Gardena

Memorial Hospital of Gardena changed its Medicare cost reporting period from a June 30 fiscal year end to a December 31 fiscal year end during 2011. As a result, it had two cost reporting periods ending during 2011: (a) a 12-month cost reporting period ending June 30, 2011 (July 1, 2010 through June 30, 2011), and (b) a 6-month cost reporting period ending December 31, 2011 (July 1, 2011 through December 31, 2011). CMS has used data from the hospital's Medicare cost report for the 6-month period ending December 31, 2011 in computing Factor 3.

There are two reasonable alternatives available for this hospital so that a 12-month cost reporting period is used to calculate Factor 3. First,, the hospital had a 12-month cost reporting period ending during 2010, with 14,886 Medicaid days. .We understand that this was the approach which CMS has taken with other hospitals with "short periods." Second,the hospital had a 12-month cost reporting period ending during 2011, the 12-month period ending June 30, 2011, with 15,042 Medicaid days. Avanti requests that the data from either of these 12-month periods be used to compute Factor 3 rather than the data from the 6-month period ending December 31, 2011

2. Community and Mission Hospital

Community and Mission Hospital had two short cost reporting periods during 2011, a five-month period ending May 30, 2011 (January 1, 2011 through May 30, 2011), and a 7-month period ending December 31, 2011 (May 31, 2011 through December 31, 2011). CMS used the 7-month period ending December 31, 2011 in determining Factor 3 for this hospital.

Community and Mission Hospital did have a 12-month cost reporting period ending during 2010, the fiscal year ending December 31, 2010 (January 1, 2010 through December 31, 2010), with 4042 Medicaid days. Avanti requests that the data from this cost reporting period be used to compute Factor 3 rather than the data from the 7-month period ending December 31, 2011. Alternatively, CMS could combine the data for the two short cost reporting periods ending in 2011 to arrive at 12-months of data for 2011 (a total of 3409 Medicaid days).

Using the data from a full year cost reporting period for both hospitals as requested above is required by the IPPS Final Rule for 2014. That rule states that the data used for Factor 3 will be "the most recently available ***full year*** of Medicare cost report data." (Emphasis added) 78 Fed. Reg. 50638. Additionally, it appears that using data from a full year cost reporting period

ending in either 2010 or 2011 is appropriate ("we are using the March 2013 update of HCRIS and we are identifying a hospital's Medicaid days based on the Medicaid days reported on the 2011, or if not available, the 2010 Medicare Hospital Cost Report". 78 Fed. Reg. 50642.

We appreciate your consideration of this comment. Please feel free to contact us if you have any questions or require any additional information.

Sincerely,

Lloyd A. Bookman

LAB/LAB