Safety-Net Association of Pennsylvania

July 23, 2013

Pennsylvania Department of Public Welfare
Office of Medical Assistance Programs
c/o Regulations Coordinator
Room 515
Health and Welfare Building
Harrisburg, PA 17120

Subject: *Pennsylvania Bulletin* Notice, "Inpatient Hospital Services," 33 Pa.B. 3582, June 29, 2013

Dear Secretary Mackereth:

I am writing on behalf of the Safety-Net Association of Pennsylvania (SNAP) to convey our perspective on the *Pennsylvania Bulletin* notice of June 29, 2013 in which the Pennsylvania Department of Public Welfare announces that it is considering establishing a Medical Assistance observation rate "for hospital cases for which an inpatient admission is not medically necessary but medical observation of a patient is required."

SNAP supports establishing such an observation rate. Observation services are a legitimate form of hospital care, recognized by Medicare, many private insurers, and Medicaid programs in other states. Hospitals incur real costs providing such essential care, yet in Pennsylvania today, hospitals are not fairly paid when they provide such services to participants in the state's Medical Assistance fee-for-service program.

The absence of observation rates is especially burdensome for Pennsylvania's safety-net hospitals. These 61 private hospitals provide more care to Medicaid patients than the state-wide average; they also either deliver babies and/or provide inpatient behavioral health services – the two most common reasons Medicaid recipients are admitted to the hospital – or, if they do not deliver babies and/or provide inpatient behavioral health services, at least 25 percent of their inpatient days must be in service to Medicaid patients. These hospitals work very much in partnership with the state in serving low-income Pennsylvanians.

The especially large numbers and high proportions of low-income patients safety-net hospitals serve have long been known to obtain disproportionate amounts of their health care through hospital emergency rooms. In fact, a recent study published in the journal *Health Affairs* ("Understanding Why Patients of Low Socioeconomic Status Prefer Hospitals Over Ambulatory Care," Vol. 32, No. 7, July 2013) reports that low-income patients actually *prefer* hospital care, and hospital emergency care, over being served in private physician offices and clinics, citing convenience, cost, and quality as reasons for their preference.

This makes the lack of an observation status in Pennsylvania's Medical Assistance program especially troublesome for the state's safety-net hospitals. Observation status patients arrive at hospitals through their emergency rooms, and safety-net hospitals typically have among the busiest emergency rooms in the

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regions they serve. Consequently, safety-net hospitals are more likely than others to have Medical Assistance patients who require observation, more likely to have large numbers of such patients, and, in light of the current absence of observation status in the program, more likely to find themselves unreimbursed for the essential services they provide to such patients. These hospitals need formal Medical Assistance observation status and fair reimbursement for providing this service.

SNAP also believes that if the state establishes observation status in its Medical Assistance fee-for-service program, the managed care organizations that serve Medical Assistance recipients through the HealthChoices program should be required to establish an observation status as well. Some of those managed care organizations already pay hospitals for observation status; the rest should be required to do so as well.

In developing an observation status policy, SNAP urges the Department of Public Welfare to consider established criteria, such as those offered in McKesson's InterQual Criteria and Milliman's Care Guidelines, to define observation status guidelines and to explore how other states address observation status in their own Medicaid programs.

SNAP also believes that in establishing observation payments, it is essential that the Department of Public Welfare carefully examine the costs hospitals incur when serving such patients to ensure the adequacy of the new rates.

In addition, SNAP believes the state's observation status policy should be flexible enough to permit hospitals to change patients' status retroactively when they learn more about their patients' conditions rather than using physicians' initial diagnosis to determine whether to assign patients inpatient or observation status. We also believe that if the hospital or a payer retroactively changes a patient's status from inpatient to observation, the hospital should be permitted to resubmit a bill for the outpatient services it provided even if the initial deadline for timely filing of claims has passed.

Finally, SNAP recognizes the complexity of this issue and would welcome an opportunity to work with the Department of Public Welfare to address this concern. At your discretion, we would be pleased to arrange for SNAP member hospitals to provide participants – physicians, administrators, or others – to serve on a committee or task force created to explore this issue and develop policy recommendations for the state.

SNAP appreciates the opportunity to comment on this issue, invites any questions you may have about the views expressed in this letter, and reiterates our offer to provide any assistance you need to help address this complex, important issue.

Sincerely,

Michael Chirieleison
President