



3 Bethesda Metro Center, Suite 508, Bethesda, MD 20814 (301) 656-8877 (800) 327-5183 Fax (301) 656-7133
www.acoi.org

June 30, 2009

Ms. Charlene Frizzera, Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1406-P
P.O. Box 8011
Baltimore, MD 21244-1850

Re: **Medicare Program; Proposed Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and Fiscal Year 2010 Rates and to the Long-Term Care Hospital Prospective Payment System and Rate Year 2010 Rates; Proposed Rule, 74 *Fed. Reg.* 24080 *et seq.* (May 22, 2009)(CMS-1406-P)**

Dear Ms. Frizzera:

The American College of Osteopathic Internists (ACOI) appreciates the opportunity to comment on the Centers for Medicare and Medicaid Services' Proposed Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and Fiscal Year 2010 Rates.

The ACOI represents the nation's osteopathic internists and medical subspecialists, including residents and fellows in those fields, and is dedicated to the advancement of osteopathic internal medicine through excellence in education, advocacy, research and the opportunity for service. Further, the ACOI is committed to assisting its members' efforts to provide the highest level of quality health care to our nation's residents. The cornerstone of our efforts in this regard is the ability to maintain the quality of our graduate medical education (GME) training programs. Adoption of the proposed rule published in the *Federal Register* on May 22, 2009 without amendment would compromise the future success of both allopathic and osteopathic GME training programs and we would like to detail for you these concerns.

Indirect Medical Education Adjustment for Capital Costs

Indirect medical education (IME) adjustments are an integral part of the funding that promotes medical training in hospitals across the country. Until Congress intervened with the adoption of the "American Recovery and Reinvestment Act of 2009" (ARREA)(Pub.L. 111-5), hospitals were facing a 50 percent reduction in IME adjustments in FY 2009 and a full reduction in FY 2010. Unfortunately, hospitals are still facing the 2010 reduction. The ACOI is concerned that allowing this reduction of IME adjustments will irrevocably impede patient access to care and will threaten training programs housed at hospitals that provide care to large numbers of Medicare, Medicaid and uninsured patients. It is imperative that CMS not allow this important pool of funding to evaporate. At a juncture in history when meaningful, comprehensive,

affordable health care for all appears within our reach, now is not the time to be implementing regulations that reduce access to care and curtail medical training opportunities.

Payments for Direct Graduate Medical Education

Clarification of Definition of New Medical Residency Training Program

The ACOI is dedicated to the creation and advancement of osteopathic internal medicine training programs that provide residents with comprehensive structured cognitive and procedural clinical education in both inpatient and outpatient settings that will enable them to become competent, proficient and professional osteopathic internists and medical subspecialists. The availability of training programs is essential to the fulfillment of these goals.

In discussing the definition of “new” medical residency training programs, CMS raises the concern that “some hospitals or contractors took the regulations to mean that as long as the relevant accrediting body...grants an ‘initial’ accreditation or reaccredits a program as ‘new,’ the hospital may receive an FTE cap adjustment for that program, regardless of whether that program may have been accredited previously at another hospital.” The ACOI appreciates CMS’ concern and subsequent efforts to clarify the term “new” medical residency training program which has caused great confusion and stifled the development of training opportunities. Unfortunately, the proposed rule as it is drafted does not provide the clarity CMS is seeking. Should the proposed rule be adopted, there will still be the potential for differing interpretations of the regulation.

CMS is proposing that a “new” medical residency training program is one that receives initial accreditation for the first time, as opposed to reaccreditation of a program that existed previously at the same or at another hospital. In addition, CMS is proposing that a program, on its own, first evaluate whether the program is “new” for Medicare purposes rather than relying on the characterization of an accrediting body. The proposed rule only suggests the consideration of certain “supporting factors.” It is not clear what other factors should be considered and what weight should be given.

It is the belief of the ACOI that CMS should reexamine its proposal and put forth specific guidelines and factors that would establish a program as “new.” Further, the ACOI believes consideration should be given to the creation of a system that would allow a “new” program to obtain a timely advisory opinion from CMS on which it could rely. While this proposed rule helps to begin to pull back the veil of confusion, more work is needed to ensure that programs do not unintentionally run afoul of guidelines that remain unnecessarily vague.

Participation of New Teaching Hospitals in Medicare GME Affiliation Agreements

The ACOI applauds CMS’ recognition of the difficulty new programs face in participating in Medicare GME affiliation agreements to temporarily adjust direct GME and IME caps. Under current regulations, a new hospital that opens after July 1 would not be able to enter into a Medicare GME affiliation agreement until the following academic year. The proposed rule would allow new programs the opportunity to temporarily adjust their direct GME and IME caps to reflect rotations of residents among affiliated hospitals during an academic year as long as an affiliation agreement is submitted to CMS prior to the end of the first cost reporting period of the new facility. The ACOI supports this proposal and encourages CMS to recognize medical

education consortia as well. Recognition of affiliation agreements between educational consortia, such as Osteopathic Postdoctoral Training Institutions (OPTIs), would foster affiliations between teaching hospitals and other venues that could further enhance the availability of quality training opportunities.

Technical Corrections to Regulations

The ACOI supports the proposal to clarify existing regulatory language to recognize the American Osteopathic Association as the entity responsible for osteopathic accreditation matters. The proposed clarification will help prevent possible future confusion.

The ACOI appreciates very much the opportunity to provide these comments. We look forward to working with CMS in the future on these and other issues of importance impacting the nation's health care delivery system.

Sincerely,

A handwritten signature in black ink, reading "Humayun J. Chaudhry, DO, MS, FACOI, FACP". The signature is written in a cursive style with a large initial 'H'.

Humayun J. Chaudhry, DO, MS, FACOI, FACP
President

Cc: ACOI Board of Directors, ACOI Council on Education and Evaluation; ACOI Government Affairs Committee; Brian J. Donadio;