National Alliance of Safety-Net Hospitals

January 31, 2019

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8011
Baltimore, MD 21244-1850

Dear Administrator Verma:

I am writing on behalf of the National Alliance of Safety-Net Hospitals (NASH) to convey our concerns about recent audits of hospitals' Medicare cost report S-10 worksheets, challenges hospitals have encountered during the course of those audits, and possible corrective actions the Centers for Medicare & Medicaid Services (CMS) might take to address those challenges.

Before beginning this discussion we would like to note that NASH supports auditing of hospitals' S-10 reports. In fact, NASH has been among the most consistent voices in recent years in favor of auditing this data, maintaining that such audits are essential before S-10 uncompensated care data should be used to calculate eligible hospitals' Medicare DSH uncompensated care payments. NASH (and our predecessor organization, the National Association of Urban Hospitals) has written to CMS on numerous occasions over the years to convey this message and has met with various agency officials as well. Our purpose was to advocate both the need for such audits and the preparation we believed was necessary to ensure that hospitals report their uncompensated care in an accurate, uniform manner so that Medicare DSH uncompensated care payments can be distributed fairly among eligible hospitals.

Unfortunately, the recently completed auditing process, as we have learned from hospital officials who participated in such audits, has encountered some problems along the way – problems that suggest that the final results generated through this process should not be used to calculate FY 2020 Medicare DSH uncompensated care payments. Those problems include inconsistency in the performance of audits among auditors and unreasonable deadlines for fulfilling auditors' requests for additional data. Together, these challenges have led to other problems that raise questions about both the data the audits has produced and the equity of using this audit data to calculate future Medicare DSH uncompensated payments.

The following are problems we learned of from various hospitals officials about their own S-10 audits:

- ***The audit methods employed and the data demanded by auditors differed widely from auditor to auditor***. As we learned about the audits hospitals have undergone, it quickly became clear that there was no single audit methodology employed either by the MACs assigned to audit their participating providers' S-10s nor by subcontractors the MACs hired to perform audits on their behalf. Consequently, the data and supporting documentation demanded by the auditors varied considerably from auditor to auditor, as did the amount of time given to hospitals to comply with requests for additional data and supporting documentation. Some hospitals, for example, were

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required by their auditors to provide every single charity care application associated with care reported as uncompensated – a major, unexpected, and very time-consuming request – while others were not asked to provide this information at all. We even learned of instances in which auditors requested different data elements from individual hospitals that are part of the same health system.

- ***Unreasonable deadlines for submitting requested data***. A number of hospital officials reported to us that auditors requested virtually instant turnaround, or extremely fast turnaround, on vast amounts of requested data. These data requests included complex components that hospitals had to pull from numerous sources including, in some cases, from data warehouses and from different electronic health record systems and formats. Auditors also requested that hospitals submit the data in specific formats that in some cases were difficult to produce. Several hospitals told us of struggling to meet a deadline for providing this initial set of data, succeeding, but then observing that the auditors waited months after the data was submitted to request the encryption key so they could gain access to that data. Then, they found that after waiting for months to even look at the data, the auditors turned around and demanded still more vast amounts of data and gave the hospitals very little time to produce it – leaving almost no time for the hospitals to contest the auditors' corrections to their S-10 reports. These hospitals were told that even if they were able to produce additional data needed to show that auditors' revisions were incorrect, those audit revisions would stand and the hospital would have no recourse because the auditor needed to submit HCRIS updates before it would have a chance to review the hospital's additional support data. Overall, hospitals reported that this was an extremely burdensome and hurried process – and, in at least some cases, this process negatively affected their audits' findings.

Based on these and other problems hospitals have encountered during their S-10 audits, we recommended that CMS take the following actions:

- ***Do not use audited data from only 25 percent of DSH-eligible hospitals to calculate future Medicare DSH uncompensated care payments until all hospitals have been audited***. This year's audits encompassed only 25 percent of DSH-eligible hospitals. The data they provided was subject to an unprecedented degree of scrutiny and subjected to an unprecedented degree of change based on the auditors' findings. If the auditors found so much to change in the S-10s they audited, it is reasonable to assume they would find just as much to change in the data of hospitals that have not yet been audited. Under these circumstances, NASH believes it would be unfair to include both audited and unaudited data in a fresh calculation of Medicare DSH uncompensated care payments – especially considering that most of the final uncompensated care figures audited so far have been reduced by the auditors and especially considering that Medicare DSH uncompensated care payments are a zero-sum game in which for every dollar less that one hospital receives, one dollar more is available to be shared by others. For these reasons, we believe this audited data should not be added to HCRIS and FY 2020's Medicare DSH uncompensated care payments should be based on this year's calculations and not the new, audited data.
- ***Standardize the auditing process***. Individual auditors, whether the MACs themselves or MAC subcontractors, should not be free to decide independently how to interpret the S-10's instructions, what supporting data they should be able to request, how much time they should give hospitals to provide additional data, how they should interpret their findings, and how much time hospitals should be given to review auditors' findings and seek corrections. These decisions should be made once, by CMS, and handed down to the MACs for uniform implementation nation-wide.

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- ***Convey decisions about auditing standards, methodologies, and time frames to hospitals***. Hospitals have long struggled to understand how to complete their S-10 forms, the instructions for which have changed multiple times and in many ways since the audit period. Many hoped that this auditing process – what data might be required of hospitals, how quickly they would be required to produce that data, and how much time they would have to review auditors' findings and seek corrections – would help inform hospitals' future filings and enable them to prepare for future audits. Unfortunately, the variety of different supporting documentation requested by MACs and their auditors suggests that they, too, do not have a consistent understanding of what is to be reported, and the significant changes in the S-10 since the audit period means that much of what could be learned from an audit may no longer be applicable in subsequent cost reporting periods. After CMS has reviewed audit-related challenges, made decisions about standardizing the auditing process, and conveyed those decisions to the MACs, it should convey them to hospitals as well so hospitals will have a better understanding of what will be expected of them during the audits and how much time they will have to comply with auditors' requests for data and documentation.
- ***Establish and announce a national rollout plan for S-10 audits***. NASH appreciates that CMS has initiated S-10 audits and encourages the agency, after addressing the issues raised above and implementing corrective actions, to develop a formal plan for future S-10 audits and share that plan, including timetables, with all DSH-eligible hospitals.

NASH appreciates your attention to the concerns we have raised in this letter and welcomes any questions you may have about them. We would be pleased to work with CMS to explore solutions to the concerns we have raised as part of a broader effort to turn the S-10 into an effective tool for policy-making, including the future calculation of hospitals' Medicare DSH uncompensated care payments.

Sincerely,

Ellen Kugler, Esq.
Executive Director

cc: Demetrios Kouzoukas, Principal Deputy Administrator and Director of the Center for Medicare
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