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2024 ASH Advocacy Agenda

2024 looks to be a challenging year for community safety-net hospitals – and for the entire health care sector. Congress left important matters unresolved as 2023 ended, including passage of FY 2024 spending bills for a fiscal year that began months ago and is sustained only through continuing resolutions that expire early in 2024. In the year ahead Congress must pass an FY 2025 budget and tackle a number of health care issues that committee chairs have indicated they would like to address, including Medicaid DSH cuts, hospital and insurance price transparency, site-neutral Medicare outpatient payments, prescription drug costs, access to mental health care, Medicare payments to doctors, and more. Congress will need to do all this, moreover, with an almost evenly divided Senate and House, a still-new House speaker, and a legislative calendar abbreviated to accommodate members seeking re-election and a presidential election.

All of this, moreover, will be taking place at a time when government payments for health care – for both Medicare and Medicaid – have become increasingly inadequate. Community safety-net hospitals are far more dependent on government payments than the typical American hospital, and as a result these inadequate payments are starving them of resources, making them fall further and further behind and making it more difficult than ever for them to serve their economically and medically vulnerable communities and continue their efforts to extend equitable access to care.

Medicaid DSH

The Affordable Care Act called for future reductions of Medicaid disproportionate share (Medicaid DSH) allotments to states to reflect the growing numbers of people who were expected to obtain health insurance under the 2010 health reform law. While the Affordable Care Act has resulted in a considerable increase in the number of insured Americans, hospitals serving predominantly low-income communities still care for large numbers of uninsured and underinsured patients and therefore need these payments no less than they did before the law was enacted. Currently, moreover, unexpectedly large numbers of people are losing their Medicaid coverage. Congress has acknowledged this over the years and has repeatedly postponed billions of dollars in Medicaid DSH cuts, doing so as recently as late last year. The latest delay in implementing these cuts expires in March of 2024, so unless Congress acts, an $8 billion cut in Medicaid DSH allotments will take effect. In 2023 ASH called for a two-year delay of any reductions of Medicaid DSH allotments and will continue to advocate that position in 2024.

Site-Neutral Medicare Outpatient Payments

Because community safety-net hospitals must shoulder significant costs to ensure access to outpatient care in the generally low-income areas they serve, ASH has long opposed the introduction of site-neutral payments for Medicare-covered outpatient services delivered in off-campus hospital outpatient departments. Safety-net hospitals have long used these payments to ensure access to outpatient care in their communities by subsidizing facility and physician costs in low-income areas where providers would not otherwise establish their practices. In 2023 the House passed a bill that calls for such site-neutral payments and several bills in the Senate call for the same. As it did in 2023, ASH in 2024 will urge Congress to exempt safety-net hospitals from any such policy change as a vital step toward ensuring access to care and health equity in communities of need.

Defining "Safety-Net Hospitals"

As Congress looks for ways to reduce health care spending, community safety-net hospitals are concerned that the unintended consequences of certain policy proposals would erode access to health care in vulnerable communities. ASH will continue to work with members of Congress and other safety-net hospital organizations to define the characteristics of a safety-net hospital in order to protect this group of providers from harmful payment policies. Any definition of a safety-net hospital must include hospitals that meet the requirements of a Medicaid deemed disproportionate share hospital (as described in section 1923(b)(1) of the Social Security Act. In 2024, ASH will continue to advocate broad adoption of this definition while also encouraging policymakers to ensure that their own efforts to enhance access to care help safety-net hospitals and the disadvantaged communities they serve.

Health Equity

Promoting health equity is part of the core mission of all community safety-net hospitals. In the coming year ASH will continue to advocate federal policies that advance health equity by directing additional resources to safety-net hospitals and the communities they serve and that any new reporting requirements associated with the expenditure of these or other federal funds respect the privacy and dignity of the patients these hospitals serve while not imposing excessive data collection and reporting burdens on these hospitals.

340B

In the wake of federal courts restoring 340B prescription drug payments to appropriate levels after years of illegal reductions, the federal government is in the process of reimbursing 340B-eligible providers for the payment shortfalls they have suffered in recent years. In 2024, 340B payments may be newly vulnerable in

the wake of efforts to reduce prescription drug costs and may particularly be targeted for cuts by non-providers. ASH will work to protect the 340B program from any such cuts.

Medicaid Managed Care

Last year the Centers for Medicare & Medicaid Services proposed a regulation that would affect the ability of states to use state-directed payments made through Medicaid managed care plans. Such payments are an essential part of how states finance their Medicaid programs and direct additional resources to safety-net hospitals so they can improve access to care and health equity. Once CMS publishes the final rule in 2024, ASH will work with the administration and Congress to ensure that it is implemented in a manner that does not harm community safety-net hospitals.

Workforce Shortages

Recent years have seen the emergence of workforce shortages as a major challenge for community safety-net hospitals. This problem has two aspects: first, hospitals are finding it difficult to hire the qualified health care professionals they need to care for their patients and often must pay a major premium for doing so; and second, post-acute-care providers such as skilled nursing facilities and home health agencies are encountering the same problem and cannot accommodate patients who are ready to be discharged from hospitals. As a result, such patients often remain in hospitals long after they no longer need hospitalization – additional stays for which hospitals are not paid. In 2024 ASH will work to ensure that Congress and the administration understand the scope of this problem and its implications while also advocating adoption of a temporary per diem payment for Medicare patients who remain hospitalized because of the absence of appropriate post-acute-care alternatives. ASH also will urge policymakers to give safety-net hospitals priority in the allocation of any new medical residency slots that may be created for physicians in 2024 and in future years.

Behavioral Health

The behavioral health and substance use challenges many Americans face continue to draw unprecedented attention in Washington policy-making circles and there is growing recognition that Medicare and Medicaid must modernize their approach to behavioral health services to enable them to do their part in addressing these challenges. As these efforts continue, ASH will work to remind policymakers that it is essential that they focus special attention on the patients community safety-net hospitals serve: significant numbers and proportions of low-income, medically vulnerable individuals whose behavioral health problems so often can be traced to inequitable access to care and social determinants of health.

Climate Change

Climate change can exacerbate social drivers of health, especially in vulnerable communities. The most recent effort to address climate change in the health care sector, through funding provided in the Inflation Reduction Act, is unfolding slowly as regulators work to help providers navigate the various sources of funding to which they can turn for climate initiatives. In 2024 ASH will work with policymakers to help them refine their guidance to hospitals and ensure that the needs of community safety-net hospitals are considered in the implementation of existing climate change policies and the development of new ones that affect health care providers and that such hospitals have equitable access to new federal funding to help them invest in projects that will contribute to the welfare of their communities.

Community Benefit

As happens periodically, some members of Congress have turned their attention to non-profit hospitals and are questioning whether their contributions to their communities justify their tax-exempt status. In 2024 ASH will continue to insist that any analysis of the value of hospitals' community benefits include the significant underpayments community safety-net hospital experience when serving their low-income communities, including not only uncompensated care but also Medicaid shortfalls, Medicare bad debt, and Medicare underpayments.

Mergers and Acquisitions

At a time when many independent community safety-net hospitals lack both the resources they need to serve their communities as effectively as possible and the leverage of a large base of privately insured patients needed to negotiate effectively with insurers and vendors, federal regulators are paying unprecedented attention to competition in health care and the potentially damaging effects of consolidation in the hospital industry. In 2024, ASH will work to ensure that regulators understand both sides of this challenge: that in some cases mergers and acquisitions may be the best way, and in some places the only way, to ensure equitable access to care for some underserved, medically vulnerable communities.

Emerging Issues

As always, ASH will speak out on new policy deliberations to ensure that the needs of community safety-net hospitals and the medically vulnerable communities they serve are understood by policymakers and reflected in the proposals they advance, the legislation they enact, and the regulations they implement. ASH also will listen continually to the challenges and needs its members articulate and work diligently to persuade policymakers to address those needs.