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January 13, 2020

Seema Verma, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-9915-P  
Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 21244-1850

RE: Transparency in Coverage (CMS-9915-P)

Dear Ms. Verma:

On behalf of its 141 member hospitals, the Missouri Hospital Association offers the following comments regarding the Internal Revenue Service, Department of Labor and the Centers for Medicare & Medicaid Services' proposed transparency in coverage regulation.

Early last year, President Trump issued an executive order calling for greater transparency of health care costs and prices. In response to the order, CMS recently issued a final rule (CMS-1717-F2) imposing additional price-related transparency requirements. The executive order also directed "the Secretaries of the Departments of Labor, Health and Human Services (HHS), and the Treasury (the Departments) to issue an advance notice of proposed rulemaking (ANPRM), consistent with applicable law, soliciting comment on a proposal to require health care providers, health insurance issuers, and self-insured group health plans to provide or facilitate access to information about expected out-of-pocket costs for items or services to patients before they receive care." These agencies have issued such a proposal through this ANPRM. It calls for insurers and self-insured plans to make cost-sharing information available to their enrollees.

MHA has long supported transparency of quality and price data that benefits the patient. MHA believes that transparency initiatives should focus on what patients actually are seeking — clear statements of what their out-of-pocket expenses will be. MHA previously submitted comments of opposition to many of the requirements of CMS-1717-F2 because the regulations are duplicative and do not provide the cost-sharing information patients seek. This proposed transparency in coverage rule will fulfill the intent of the President's executive order and align with what patients are calling for, "access to information about expected out-of-pocket costs for items or services." MHA continues to ask CMS to establish a multi-stakeholder technical advisory group, made up of hospitals, physicians, information technology firms, accounting firms, insurers and most importantly, patients. The TAG would be charged to develop a transparency policy that puts the patients first, develop policies that are workable and minimize duplicative regulatory burden.

### **UNINTENDED CONSEQUENCES OF PUBLISHING THIRD-PARTY PAYMENT RATES**

Releasing and comparing third-party contracts has unintended consequences. If CMS finalizes such requirements, it will permit what traditionally has been barred by antitrust law and standards from

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being done by private action. This type of disclosure makes that data readily available for all to share. The market effect may be what the laws, regulations and enforcement activities of the Federal Trade Commission, U.S. Department of Justice and other antitrust regulators have long sought to prevent.

Proponents of data transparency often assert that the intended outcome is to lower health care costs by encouraging competition. However, it is just as likely to raise costs. Forcing the disclosure of this information will not necessarily increase competition or lower costs. MHA previously made this argument in its comments regarding CMS' proposed rule CMS 1717-P. We reiterate it here in response to the negotiated rate disclosure requirements of the pending proposed rule.

### **MAKING PERSONALIZED OUT-OF-POCKET COST INFORMATION AVAILABLE**

MHA applauds CMS' proposal to require insurers to make available personalized out-of-pocket cost information for all covered health care items and services through an internet-based self-service tool. This is the information that patients need to shop for the lowest out-of-pocket option. MHA urges CMS to finalize this section of the regulation as proposed.

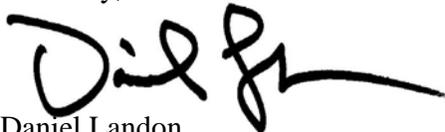
### **SOLICITATION FOR COMMENT ON HOW QUALITY INFORMATION CAN BE INCORPORATED INTO PRICE TRANSPARENCY PROPOSALS**

MHA recognizes the value of quality data transparency in helping the patient make informed decisions about health care services. Hospitals in Missouri have been reporting price and quality data through an MHA supported website. *FocusonHositals.com* contains quality metrics such as harm prevention, infection prevention and readmission data that aligns with current CMS quality reporting requirements. Transparency in quality is of equal importance to patients as price transparency.

Like pricing, quality transparency has been a requirement for hospitals for many years. CMS also has tied quality metrics to annual payment updates and other pay-for-performance programs. Hospitals were required to develop and maintain the administrative processes, staffing and information technology systems that enabled successful reporting of quality data to CMS. Due to the up-front and ongoing operational cost, MHA supports incorporating quality information into price transparency proposals as long as additional administrative and information technology is not needed to do so. This is another example of a need to develop a TAG to assess and develop quality transparency recommendations for the commercial insurer market.

Thank you for the opportunity to comment and for your consideration of these issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Landon', with a long horizontal flourish extending to the right.

Daniel Landon

Senior Vice President of Governmental Relations

dl/djb