Statement of the
Association of Community Cancer Centers

Before the
Advisory Panel on Hospital Outpatient Payment
August 19-20, 2019

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The Association of Community Cancer Centers (ACCC) appreciates this opportunity to testify before the Advisory Panel on Hospital Outpatient Payment (the "HOP Panel"). ACCC is a membership organization whose members include hospitals, physicians, nurses, social workers, and oncology team members who care for millions of patients and families fighting cancer. ACCC represents more than 25,000 cancer care professionals from approximately 2,000 hospitals and private practices nationwide. It is estimated that 65 percent of cancer patients nationwide are treated by a member of ACCC.

In the Hospital Outpatient Prospective Payment System (OPPS) Proposed Rule for calendar year 2020 (the "Proposed Rule"), CMS proposes to complete the phase-in of the payment reduction, finalized in the 2019 rule, for clinic visits at off-campus departments that are excepted from Section 603 of the Bipartisan Budget Act of 2015. Payment for these services would be reduced to 40 percent of the standard OPPS rate, the amount CMS currently pays for services in nonexcepted off-campus departments, after being paid at 70 percent of the standard rate in 2019. CMS cites the statutory provision on development of a "method for controlling unnecessary increases in the volume of covered [outpatient department] OPD services"[1] as authority for this proposal. As it did in 2019, CMS proposes to continue to implement this change in a non-budget neutral manner, and the agency estimates that this change would reduce payments under the OPPS by 0.6 percent, with reductions as high as 1.9 percent in parts of the country.

ACCC remains deeply concerned about this policy and the harmful effects it could have on access to cancer care if fully implemented. Clinic visits are a central part of cancer care, and patients rely on hospitals, including their off-campus departments, to provide these services, especially in areas with few physician practices. Off-campus departments allow patient to be treated in convenient locations that are integrated with the main hospital. Significantly reducing payment for these services will, without a doubt, hurt hospitals' ability to provide care in these settings. Indeed, the <u>purpose</u> of this proposal is to reduce utilization of clinic visits in excepted off-campus departments.

We continue to believe that the proposed payment rates for clinic visits of 40 percent of the OPPS rates would be inadequate to support access to these important services. OPPS payment rates generally are based on hospitals' geometric mean costs of care. Although the payment rate for services in a particular ambulatory payment classification (APC) may be more or less than a hospital's cost for a procedure within that APC, the system is intended to provide appropriate reimbursement, on average. In contrast to this usual method, CMS proposes to ignore its data on the cost of providing clinic visits and set payment at 40 percent of the geometric mean cost calculated from its claims data. This rate is not based on hospital cost data, CMS has not provided a solid rationale supporting payment at anything less than the average cost, much less payment at 40 percent of the OPPS rate.

[1] Social Security Act (SSA) § 1833(t)(2)(F).

Moreover, because the proposed reduction would be implemented in a non-budget neutral manner, the cut in payment for these services would not be balanced by increases in payment for other services. If these cuts are fully implemented, hospitals would need to consider reducing access to care at off-campus departments, increasing burdens on patients who would need to travel farther to the main hospital campus and potentially causing delays in treatment as hospitals adjust to treating more patients on campus.

We believe it is premature to complete the phase-in of these payment reductions until the effects of the payment reductions implemented to date have been thoroughly analyzed. CMS presents no data on how a similar payment reduction affected access to care in nonexcepted departments, beginning on January 1, 2018, following a year of payment at 50 percent of the OPPS rate. CMS has not provided any analysis of the anticipated effect of the payment reduction, the amount of services that it would consider to be "necessary," or an adequate justification for its belief that the proposed payment rate will not harm access to care.

In fact, the Proposed Rule merely refers to the final rule for 2019 for discussion of any data or analysis. But CMS's 2019 rule does not adequately analyze the implications of CMS's payment reductions. In the 2019 rule, CMS pointed to data showing that the volume of outpatient department services was increasing. CMS then concluded, in a circular fashion, that such evidence showed that the increases were inherently "unnecessary."[2] CMS did not, however, meaningfully explore alternative explanations for why volume might be appropriately increasing, such as increased patient demand due to aging populations. Nor did CMS put forward data or analysis evaluating how its policy would affect patient access. Tellingly, CMS acknowledged that its policy could inhibit access to care, "especially in rural areas where access issues may be more pronounced than in other areas of the country," but CMS did nothing to meaningfully analyze the scope of such risks.[3] Without such information, we cannot conclude that applying this reduction to excepted departments would not harm access to care.

For this reason, we urge the HOP Panel to recommend, again, that CMS not implement the proposed payment reduction for clinic visits in excepted off-campus departments.

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Thank you for the opportunity to present this statement on behalf of ACCC. We appreciate your attention to these important issues and are happy to answer any questions you may have.

[2] 83 Fed. Reg. 58,818, 59,005–13 (Nov. 21, 2018).

[3] *Id.* at 59,013.