



November 2, 2005

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1320-P
P.O. Box 8020
Baltimore, MD 21244-8020

Re: File Code CMS-1320-P

Department of Health and Human Services:

The Nevada Cancer Institute welcomes the opportunity to provide comments regarding the Proposed Rule set forth at 42 Part CFR 505 (Medicare Program; Health care Infrastructure Improvement Program; Forgiveness of Indebtedness). The Nevada Cancer Institute ("NVCI") is a non-profit corporation recognized by the Nevada legislature as the official cancer institute for the State of Nevada. NVCI is committed to bringing innovative cancer therapy options to all cancer patients in Nevada and focuses its efforts and resources on cancer research, education, treatment and care.

The proposed rule would implement section 1016 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) (Pub. L. 108-173) by establishing the loan forgiveness criteria for qualifying hospitals who receive loans under the Health Care Infrastructure Improvement Program. The notice of proposed rule states that CMS "welcomes comments from the public on all issues set forth in this proposed rule to assist CMS in fully considering issues and developing policies."

Background:

Section 1016 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) (Pub. L. 108-173) amended Title XVIII of the Social Security Act (the Act) to establish section 1897 of the Act, the Health Care Infrastructure Improvement Program (Loan Program). Section 1897 of the Act authorizes the Secretary of the U.S. Department of Health and Human Services (Secretary) to establish a loan program that provides loans to qualifying hospitals for payment of the capital costs of eligible projects. Section 1897(d) of the Act specifies that an eligible project is a project of a qualifying hospital that is designed to improve the health care infrastructure of the hospital, including construction, renovation, or other capital improvements.

Section 1897(f) of the Act states that the Secretary may forgive a loan provided to a qualifying hospital, under terms and conditions that are analogous to the loan forgiveness provision for student loans under part D of title IV of the Higher Education Act of 1965, (20 U.S.C.1087a *et seq.*). However, the Secretary shall condition such forgiveness on the establishment by the hospital of—(1) An outreach program for cancer prevention, early diagnosis and treatment that provides services to a substantial majority of the residents of the State or region, including residents of rural areas; (2) an outreach program for cancer prevention, early diagnosis, and treatment that provides services to multiple Indian Tribes; and (3) unique research resources (such as population databases); or an affiliation with an entity that has unique research resources. Also, section 1897(h) of the Act states that the Secretary shall submit to Congress a report on the projects for which loans are provided under this section and a recommendation as to whether Congress should authorize the Secretary to continue loans under this section beyond fiscal year 2008.

CMS proposes at § 505.13(c) that the qualifying hospital must submit to CMS by the timeframe specified by the Secretary the following: (1) A written request for loan forgiveness; (2) a plan describing how the qualifying hospital would establish, implement or maintain existing outreach programs for its targeted populations; and (3) how it would establish or maintain existing unique research resources over the loan deferment period. CMS proposes to make that timeframe 60 days after the publication of the final rule. CMS also states its belief that 60 days after the final rule publication date is reasonable time for qualifying hospitals intending to apply for loan forgiveness to prepare and submit their initial plan, since the loan deferment period is 60 months after notification of acceptance in the program and the qualifying hospital would be assessed on its performance during the loan deferment period.

CMS further states its belief that it is appropriate to request this level of detail from the qualifying hospitals because section 1897(h) of the Act requires the Secretary to submit a report to the Congress before fiscal year 2008. The report must indicate the projects for which loans are provided under this section and recommend whether the Congress should authorize the Secretary to continue loans under beyond fiscal year 2008. Receiving this information from the qualifying hospitals is necessary for the Secretary to make a fully informed recommendation to the Congress.

Comment:

NVCI generally supports the terms and conditions of forgiveness established in the proposed rule. However, we believe that the loan deferment period of 60 months should be shortened to 36 months. While the Act does state that the Secretary may forgive a loan provided to a qualifying hospital under terms and conditions that are analogous to the loan forgiveness provision for student loans under part D of title IV of the Higher Education Act of 1965, (20 U.S.C.1087a *et seq.*), it does not appear to dictate the duration of the loan deferment period.

The Act provides that the Secretary shall condition forgiveness of the loan on the establishment by the hospital of—(1) An outreach program for cancer prevention, early

diagnosis and treatment that provides services to a substantial majority of the residents of the State or region, including residents of rural areas; (2) an outreach program for cancer prevention, early diagnosis, and treatment that provides services to multiple Indian Tribes; and (3) unique research resources (such as population databases); or an affiliation with an entity that has unique research resources. We believe that the establishment of the outreach programs and the unique research resources (or affiliation with an entity that has unique research resources) are conditions which can and should be accomplished with appropriate speed to maximize the benefits to intended beneficiaries at the earliest possible opportunity.

NVCI believes that 60 months is an excessive period of time for qualifying hospitals to establish the outreach programs and the unique research resources. In fact, the very nature of the required conditions are such that meaningful steps toward satisfaction of the conditions should be accomplished within the first twelve months of the loan program. In any event, establishing a loan deferment period of 60 months will likely facilitate delay in satisfaction of the conditions by qualifying hospitals. Importantly, this will mean delay in the establishment of outreach programs, which will result in continued delay in serving patients who are faced with inadequate or insufficient health care infrastructure. This inevitable result seems inconsistent with the clear objective of the Act.

If you would like to discuss these comments, please contact Heather Murren at (702) 821-0000. Thank you in advance for your consideration.

Respectfully,



Heather Murren
President and CEO

HM:nlb