Bethesda Southgate

JUL

BETHESDA HEALTH GROUP

Christine Crouch
5943 Telegraph road
St.Louis, MO 63129-4715

July 4, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention CMS-2268-P
P.O. Box 8016
Re: Stop Nursing Home User Fees----CMS 2268-P

As a provider of high-quality long-term care and a member of the American Association of Homes and Services for the Aging, I urge you to end the user fee that will be imposed on all nursing home survey revisits according to provisions of the fiscal 2007 continuing resolution, PL 110-5. Please do not allow this fee to continue beyond the end of this fiscal year.

While the user fee nominally applies to all health care providers, nursing homes would bear the brunt of it because we are the only type of health care provider subject to annual surveys (inspections). Many nursing homes providing excellent care would pay the fee along with homes considered to be "poor performers" because even minor infractions on a survey would lead to the imposition of a user fee. Everything needing correction would lead to a fee, because survey agencies would have to verify that a facility had come back into compliance. The fee constitutes a penalty that facilities will have to pay regardless of whether cited deficiencies are appealed and overturned. Furthermore, the fee will be imposed in addition to whatever penalties are assessed for deficiencies in care.

The user fee will remove several thousands of dollars per facility that otherwise would be available for resident care. The fee constitutes a penalty that facilities will have to pay regardless of whether cited deficiencies are appealed and overturned, as they frequently are. Furthermore, the fee will be imposed in addition to whatever penalties are assessed for deficiencies in care.

Quality assurance in health care is important enough to merit an adequate allocation of resources to CMS's enforcement budget, without resort to these inequitable fees. When the Labor/Health and Human Services/Education fiscal 2008 appropriations bill comes to the Senate floor, please do everything possible to ensure that the user fee is not renewed.

Sincerely,

Christine E. Crouch

Christine Crouch
314-3751000
Vice President, Administrator
Bethesda Southgate

2

JUL - 9

FRANCISCAN
COMMUNITIES

Sponsored by the Franciscan Sisters of Chicago

July 5, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention CMS-2268-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

To whom it may concern:

I am writing these comments in response to the proposed rule (CMS-2268-P) which would require providers to pay CMS a revisit user fee. I am totally opposed to this rule because the funding to administer the survey process, including revisits, is already in place. Imposing this fee would be equivalent to the IRS imposing a fee on an individual taxpayer when his/her tax return is flagged for an audit. This proposed rule is a clear example of extortion by a government agency.

If the leadership of CMS is unable to administer the survey process within its current funding, then it's time for new leadership.

Sincerely,

John J. Morrison
Vice President of Operations
Indiana/Kentucky/Texas

1700 Lindberg Road, West Lafayette, IN 47906 Phone (765) 464-5685 Fax (765) 464-5697
www.franciscancommunities.com

Norman J. Harris M.D., F.A.C.S.
Department of Otolaryngology, Head & Neck Surgery
UCI University Physicians & Surgeons Medical Center
101 The City Drive, Bldg. 56
Orange, California 92868

Tel (714) 456-7017 (app't) FAX (714)456-7248

14 July 2007

FILE CODE: CMS-22-68-P (Revisit User Fee)

Federal Register/Vol. 72, No. 125/June 29,2007

On Page 35674, I object to the statement that "Medicaid ... provides medical services...". Physicians, nurse and allied health professionals provide services. Medicaid (pretends to)pay(s) for it.

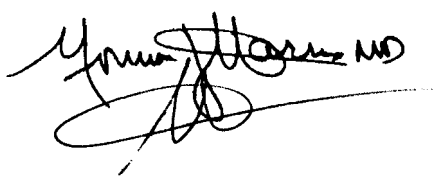
On Page 35675, II,488.1 "We propose that a user fee... etc." is a recipe for abuse. The agency that inspects should not be allowed to benefit financially from its findings. This is a classic conflict of interest about to be embesdded into the regulatory process.

On Page 3576, II, 488.1 "A complaint from any of a variety of sources..." is over broad in accepting information and permits the process to go forward on the basis of doubts...not evidence. Further on the phrase "substantial allegation of non compliance" is proposed as a warrant for a fee. This is an invalid warrant because the term is vague and open ended by definition.

On Page 35676, II, 488.1 Chiropractors are excluded because they are placed in the category of "suppliers" Their status among the Allied Health Care professions remains in dispute and they should not be included in any Medicare Provider list.

On Page 35677, Section 488.30(b) "...at no time is the individual provider's cost borne by other patients." This statement betrays either ignorance of or disregard for the nature of medical transactions. Fees extracted from the provider's income stream directly impact the range and quality of the services rendered by competing on a cash basis with all other spending priorities in the practice/institution.

On Page 35678, Section 488.30(f) Failure to pay fees for thirty days can result in total shut down of any facility whose client base includes a substantial per centage of Medicare patients. This power is disproportionate to the offence, which has no direct relationship to quality of care or safety issues. This provision, as written, is a substantial addition to the reasons not to participate... not to care for... Medicare patients.



5000 Back Square Drive, Building C
Owensboro, Kentucky 42301

Telephone 270-684-1600
Facsimile 270-688-5900
www.harborsidehealthcare.com

Kentucky South
HARBORSIDE
Healthcare

July 10, 2007

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention CMS-2268-P
Mail Stop C4-25-05
7500 Security Boulevard
Baltimore, MD 21244-1850

This letter is written in response to the proposed rule that would require providers to pay CMS a revisit user fee.

Given the current reimbursement structure for skilled nursing facilities, it is shocking to think this measure is even being considered. The proposed hourly rate of $112 per day is almost as much as facilities receive to provide ***24-hour*** care and services to a Medicaid recipient in a skilled nursing facility. In addition, $112 per hour would cover the cost of almost 10 line-staff employees, for that same hour, in a rural Kentucky facility!

The American Health Care Association estimates that Medicaid is already funded $4.8 billion annually to administrate the survey process. It is more than reasonable to expect CMS to control expenses and manage within their current budget restrictions, just as skilled nursing facilities have been forced to do.

It would be completely absurd to charge facilities for the survey process especially when this program continues to have significant inconsistencies from region to region and state to state. In the end, facilities would be forced to reduce expenses elsewhere which would ultimately affect resident care and services.

Thank you for your time and consideration.

Sharon Warren
Regional Vice President

CC: Kentucky Health Care Association

Honorage Nursing Center
1207 North Cashua Drive
Florence, SC 29501
843-665-6172
Fax 843-665-1233

JUL 12 2007

July 6, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

Attention: CMS-2268-P

To Whom It May Concern::

It has been brought to my attention that the Centers for Medicare and Medicaid Services has proposed a revisit user fee be established to reimburse the Department of Health and Human Services for expenses incurred while following up on survey citations. I would like to voice comments regarding this file code CMS-2268-P, Establishment of Revisit User Fee Program for Medicare Survey and Certification Activities.

After having read this proposal, I have several concerns that I feel must be voiced regarding the tremendous potential for abuse of this proposal. This proposal places entirely too much financial control of the facilities in the hands of the state surveyors, some of whom do not have as much as one year experience and many survey teams without 5 years combined experience between them. This is especially important given all of the regulatory changes that have been issued in just the past 2 years. Further, this basically grants the agencies a permission slip from our Federal Government to charge facilities at their leisure since it is ultimately the decision of the surveyors if they issue citations versus verbal warnings on regulations that are so often left to the interpretation of the surveyor. Who is going to assess the state agencies for abuse of this proposal? Who will be held accountable for ensuring that spurious citations, such as a bent mini-blind, are not issued solely for the purpose of collecting return visit fees?

At this point in time, any anonymous individual can contact the state agencies and make complaints which the state agency is obligated to investigate without revealing their identity. This is a good practice because it promotes facility compliance. However, it must be noted that disgruntled employees can trigger such investigations without regard to their current employment status as a means of exacting revenge for having been dismissed for excessive tardiness or sleeping on the job. When it becomes publicly known that this fee is going to be charged to facilities, this will only provide those individuals with additional motivation for anonymously reporting complaints against the facilities in hopes of having them substantiated and fees imposed. Employees who are aware that they are under observation for possible termination can take this into account and potentially gather confidential information from the facility specifically for the

purpose of reporting to state agencies as complaints or can even go as far as fabricating complaint supportive information to report. With the healthcare industry, elimination of this possibility is not realistic.

The facilities are justly liable for providing the equipment used in the institutions to provide care for its residents and making upgrades when needed. This area is more than likely going to suffer from this proposal despite the "checks and balances to deter this from occurring." If facilities are forced to bear the financial burden for return or complaint visits uniformly, this price will ultimately be paid by the residents located within those facilities. When you alter the intent of investing funds which are available to the facility through the imposition of fees, you restrict the provisions for the residents cared for at the facility because those funds are no longer available at the amount anticipated and the equipment quality as well as quantity begins to diminish. Financially established facilities should not allow this to interfere with equipment being provided to assist with the care of their residents; however, some smaller more financially challenged facilities may be forced to decrease equipment spending based on costs incurred at the hands of state agencies.

The difference in per diem rates and RUGS rates from facility to facility is based on industry established guidelines. Essentially, the better the care that your facility provides, the greater the re-imbursement to the facility for providing such care becomes. Should facilities that are identified as going above and beyond to provide higher level care through a higher cost of operations be subjected to those same penalties as the facilities that are performing at the bare minimum requirements with lower costs of operations if the goal is to promote a better health care environment?

The percentage of providers which required revisit survey onsite and offsite that is currently assigned to skilled nursing facilities is 87.9%. How much of that percentage is determined to be repeat re-visit surveys and how much of that percentage is assigned for greater than 1 or 2 deficiencies? If this is going to be assigned in an unbiased manner, it should be taken into consideration that where one skilled nursing facility may have only 1 or 2 minor deficiencies, another facility may have in excess of 15 citations of a more serious nature. Should the two facilities comparatively pay the same proposed revisit fee of $2072.00 when the quality of care is so obviously different? This schedule offers absolutely no incentive for the number of citations to be reduced or the severity level to be considered.

Additionally, economic implications must be considered and the potential impact on wages for employees within healthcare facilities, some of whom are at best minimally educated. Where financial capacity for performance based increase of wages is in place at this time, if the financial ability of the facility is further restricted or diminished the employees will also bear the burden of this proposal as previously designated funds are no longer available for this.

In review, the idea behind the proposal is an honorable proposal which has more than valid indications for necessity. However, the impact of this proposal as it is currently

written has potentially devastating consequences for those that can least afford them namely the residents and the employees. It also has unfair aspects to those facilities issued but a few citations for minor deficiencies versus major or multiple deficiencies.

There is no such thing as a perfect facility. Any facility that is surveyed and receives absolutely no citations has potentially had a survey team that was not as thorough as it should have been or the facility was much better at hiding its deficiencies. As long as humans are involved in the operations of any health care facility, there are going to be avoidable mistakes. If robots were placed to operate the facilities, they will eventually breakdown. There has been but one perfect human born to this world, and he was crucified. If this becomes a law, I feel like the facilities are the ones being crucified.

Sincerely,

Howard W. Clarke

Howard W. Clarke, Administrator
Honorage Nursing Center

CC: File
CMS
SC Senator Hugh K. Leatherman
SC Health Care Association