

6 November 2009

The Honorable Marcy Kaptur
Ohio Congressional District 9
2186 Rayburn House Office Building
Washington, DC 20515

VIA E-MAIL

Dear Representative Kaptur:

On behalf of the Ohio Hospital Association (OHA) and the more than 175 hospitals and 19 health systems across Ohio, we appreciate the opportunity to share our views on H.R. 3962, the *Affordable Health Care for America Act*. We understand a floor vote on the measure is imminent.

OHA continues to strongly support efforts to address meaningful, systemic health care reform in the 111th Congress. However, Ohio's hospitals have serious concerns with some provisions in H.R. 3962, and we urge Congress to address the following issues before a final package is enacted. In our view:

Personal Accountability in controlling one's own health care costs and maintaining good health is not sufficiently addressed in the bill. While people can't always prevent illness or accidents, many behaviors (such as tobacco use, diet, and exercise) have a profound impact on a person's health and contribute to his or her health care needs over a lifetime. Government cannot and should not dictate personal choice, but it can create incentives and disincentives aimed at promoting healthy behaviors, thereby decreasing health care spending over the long term.

Reductions in Provider Reimbursement under Medicare and Medicaid, while politically expedient at reducing the federal government's "costs" under the legislation, will do little to reduce the growing costs borne by hospitals in providing care to their communities. Congress should more carefully consider the long-term impact of the Medicare and Medicaid payment reductions under H.R. 3962.

Reimbursement Rates Under the Public Health Insurance Option in H.R. 3962 are to be negotiated with providers, rather than being based on Medicare rates. This is an essential distinction, because *average Medicare reimbursements to hospitals are below of the cost of providing care*. Providing near-universal insurance coverage to Ohioans will mean little, and Ohioans will suffer, if their local hospital is forced to close or eliminate important services because net reimbursements do not at least equal the costs of

providing care. We urge you not to tie, in any way, reimbursements under a public plan to Medicare rates.

Physician Reimbursements Under Medicare are scheduled to be slashed by 21.5 percent on Jan. 1, 2010, under current law. Such a dramatic reduction in payments would not only drive many physicians out of practice at a time when Ohioans have a growing need for their services, but it also would severely limit seniors' access to primary care and strain the resources of many hospital emergency departments to the breaking point. Congress should work with providers to find appropriate, long-term solutions to the shortcomings of the Medicare Physician Sustainable Growth Rate (SGR) formula. Should this prove politically impossible before Jan. 1, we urge Congress to, at the very least, protect physician reimbursement with a temporary freeze from the looming reduction.

Competition Within the Health Insurance Market is an essential element of an effective health care system, both to give people a broad selection of insurance options and to help keep down health care costs. Hospitals believe that the penalties for not carrying health insurance (imposed on most individuals above certain income thresholds) must be sufficiently robust to maximize participation by all Ohioans in the health insurance system and thereby distribute risk. Additionally, Congress should consider other reforms, such as establishing a re-insurance program to protect small insurers and modest waiting periods to ensure the insurance reforms cannot be "gamed."

Expansion of Medicaid Eligibility to families with incomes below 150 percent of the Federal Poverty Level might be an expedient way to offer low-income families health insurance coverage, but the state of Ohio, facing the worst budget projections in decades, simply lacks the resources to shoulder the financial burden for this expanded population. We believe the federal government should pay 100 percent of the costs for all services for this expanded population, for at least the next five years.

Liability Reforms should be more appropriately drafted in the legislation. While comprehensive liability reform cannot be accomplished at the state level, Congress should not tie the hands of states in enacting reforms. We need federal legislation to support, but not hamper, state medical liability initiatives.

An ill-conceived **Maintenance of Effort Provision for Certain States under the State Children's Health Insurance Program (S-CHIP)** was included in the bill that would have a negative impact on a handful of states, including Ohio. OHA strongly supports the position and recommendations of the Ohio Children's Hospital Association (letter attached) on this important issue.

Additionally, OHA shares the **American Hospital Association's Concerns with H.R. 3962** (detailed in the attached white papers) regarding preventable hospital readmissions, the design and leadership of Accountable Care Organizations (ACOs), a tax on medical devices that is likely to be passed on to providers under the current draft of the bill, and

the expansion of the 340b drug discount program to both outpatient *and* inpatient hospital settings.

Despite our serious concerns with H.R. 3962 (*which we ask you to prevail upon House leadership to address through a manager's amendment prior to a floor vote*) we believe many of the provisions in H.R. 3962 are in keeping with OHA's Vision, Goal, and Principles for Health Care Reform (attached), developed through consultation with hospitals across the state and approved by OHA's governing Board of Trustees last autumn.

Some of the House bill's provisions that hospitals embrace include:

Insurance Market Reforms such as those that would ensure the guaranteed issue and renewability of health plans, prohibiting denials based on pre-existing conditions, and limiting premium rating variations and medical loss ratios.

Individual Responsibility to carry health insurance coverage (either through employer-sponsored health plans, privately purchased plans, or public programs like Medicare or Medicaid) coupled with penalties for most individuals above certain income thresholds who do not carry coverage. Critical corollaries to these requirements are provisions (including subsidies, out-of-pocket limits, and other cost sharing mechanisms) to help families and individuals find and afford appropriate health insurance plans.

Employer Responsibility to contribute toward employees' health insurance, with sufficient safeguards, exemptions, and incentives to assist employers – especially small businesses and the self-insured.

An Insurance Exchange or “gateway” designed to help people and employers comparison shop the available health insurance options in their areas, along with mechanisms allowing insurance purchasers to pool their resources and State to enter into regional health insurance compacts.

Efforts to Expand Meaningful Health Insurance Coverage to more than 95% of Americans, including the creation of an interim high risk pool, extensions of COBRA eligibility and benefits, and the establishment of voluntary long-term care insurance options.

Elimination of the “Whole Hospital” Exception under the Stark Law, which effectively would prohibit a physician from referring patients to new limited-service facilities in which the physician has an ownership interest. This measure, included in both the U.S. House and Senate bills, has been scored by CBO as a net savings to the federal government.

An Extension of the Enhanced Federal Medical Assistance Percentage (FMAP) under Medicaid, as spelled out in §1749 of H.R. 3962, would go far toward assistance States like Ohio, which continue to grapple with difficult budgets.

Assistance for Hospitals, including protections for Medicare's Indirect Medical Education (IME) reimbursement for teaching hospitals and the extension of several provisions that help rural hospitals.

As a key element of the health care delivery system in Ohio, we appreciate the opportunity to share our perspective on this important legislation. We look forward to continuing to work with you to preserve the elements of H.R. 3962 we believe are essential, and to improve those aspects of the legislation that still must be addressed. If you or your staff has any questions, please feel free to contact OHA's Federal Relations Director, Jonathan Archey, or me.

Sincerely,

A handwritten signature in black ink that reads "J.E. Callender". The signature is written in a cursive, slightly slanted style.

John E. Callender
Senior Vice President and CFO

JEC/jsa

Attachments

c.c. District 9 Hospitals, American Hospital Association

