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United States Senate

WASHINGTON, DC 20510

September 18, 2009

Ms. Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health & Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

Dear Ms. Frizzera:

I write to ask for your help with a critical issue facing the state of Ohio and its hospitals.

CMS is currently reviewing Ohio's Medicaid State Plan Amendment (SPA) 09-001, which affects my state's Medicaid Disproportionate Share Hospital (DSH) program. The SPA was filed with CMS by the Ohio Department of Job and Family Services (ODJFS) on May 12, 2009. Citing technical questions, CMS issued a request for additional assistance to ODJFS on August 5, 2009.

ODJFS responded with a letter received by CMS on September 3. The first ten pages of the ODJFS letter answer all of CMS' technical questions in detail, but to facilitate your agency's review, ODJFS also attached a number of supporting documents cited in the response (mainly sections of Ohio's Medicaid code previously approved by CMS).

Under procedures long-approved by CMS, Ohio provides its share of the Medicaid DSH program primarily via an assessment on hospitals. As referenced in SPA 09-001, this arrangement will continue with this year's Medicaid DSH program in Ohio. According to your Office of Legislative Affairs and regional office staff, nothing in Ohio's September 3 response would seem to prevent swift approval of SPA 09-001.

But under Ohio's recently-enacted state budget, a new "franchise fee" on hospitals – separate from assessments collected under Ohio's DSH program – has taken effect, and the first installment of that assessment will be due to the state on October 30. This represents a very large concern not only for small hospitals, but for all hospitals with cash-flow issues in the still-slumping Ohio economy. Some of these cash-flow issues could be so severe that, barring expedited federal approval, a number of hospitals may not be able to pay both the DSH and franchise fee assessments, which could provoke further sanctions against those hospitals.

While I understand that CMS has 90 days to review Ohio's September 3 response, I urge you to approve Ohio's SPA 09-001 by September 25, 2009. Approval by this date would ensure Ohio's Medicaid DSH reimbursements are distributed to hospitals in time for them to be able to pay the new State franchise fee before the October 30 deadline.

This is a very serious matter for the people of Ohio. I appreciate your consideration and your swift approval of Ohio's SPA 09-001.

Sincerely,



Sherrod Brown
United States Senator