



Charles N. Kahn III  
President and CEO

January 16, 2024

The Honorable Mike Johnson  
Speaker  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Charles Schumer  
Majority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Hakeem Jeffries  
Minority Leader  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Mitch McConnell  
Minority Leader  
United States House of Representatives  
Washington, D.C. 20510

Dear Speaker Johnson, Minority Leader Jeffries, Majority Leader Schumer, and Minority Leader McConnell:

We appreciate your ongoing efforts to address government funding and we are encouraged by the bipartisan, bicameral agreement reached for fiscal year 2024 appropriations. As negotiations progress, we urge you to consider the Federation of American Hospitals' (FAH) priorities outlined below.

The FAH is the national representative of more than 1,000 leading tax-paying hospitals and health systems throughout the United States. FAH members provide patients and communities with access to high-quality, affordable care in both urban and rural areas across 46 states, plus Washington, DC and Puerto Rico. Our members include teaching, acute, inpatient rehabilitation, behavioral health, and long-term care hospitals and provide a wide range of inpatient, ambulatory, post-acute, emergency, children's, and cancer services.

**As Congress weighs the menu of healthcare priorities under consideration for the upcoming government funding legislation, we urge Congress to:**

### **Reject Site-Neutral Cuts to Medicare**

The FAH strongly opposes site neutral cuts to Medicare payments, such as the site neutral payment proposal for physician-administered drugs in off-campus hospital-based outpatient departments (HOPDs) contained in the House-passed *H.R. 5378, the Lower Cost More Transparency Act*.

Site-neutral payments do not consider one simple fact: hospitals and doctors' offices are not the same. Hospitals require a different payment structure because we provide critical services to communities including 24/7/365 access to emergency care, disaster response, and treatment of

high-acuity patients. Hospital-affiliated sites offer patients more integrated care across healthcare settings, services for which we need to be properly reimbursed to maintain coordinated, high-quality care for patients.<sup>1</sup>

If site-neutral payment cuts were to be enacted, rural hospitals would be the first facilities impacted by the financial strain, forcing difficult decisions regarding the viability of operations in rural areas. Rural hospitals are the hub of health care services in their communities, and site-neutral reductions would put the entire rural health care infrastructure at risk.

Researchers found that HOPDs treat more underserved populations and sicker, more complex patients than other ambulatory care sites. A recently released study from the American Hospital Association backs up this fact.<sup>2</sup> The study indicates that relative to patients seen in independent physician offices and ambulatory surgical centers, Medicare patients seen in HOPDs tend to be:

- Lower-income;
- Non-white;
- Eligible for Medicare based on disability and/or end-stage renal disease;
- More severe comorbidities or complications;
- Dually-eligible for Medicare and Medicaid; and,
- Previously seen in an emergency department or hospital setting.

Recent analysis<sup>3</sup> shows that – on average – Medicare pays only 82 cents for every dollar of hospital care provided to Medicare beneficiaries, leaving hospitals with nearly \$100 billion in Medicare shortfalls in 2022 alone. Therefore, it is vital that payment for outpatient services provided in HOPDs reflects the higher overhead costs associated with providing care in that setting.

Congress should reject site-neutral cuts to Medicare, and instead pursue the priorities outlined in the Senate Finance Committee approved and FAH endorsed S. 3430, *Better Mental Health Care, Lower-Cost Drugs, and Extenders Act*.

### **Delay Implementation of Medicaid Disproportionate Share Hospital (DSH) Cuts**

We commend Congress for its action in the most recent Continuing Resolution to extend the delay in Medicaid DSH cuts to January 19, 2024. Further, we support the two-year elimination of the DSH cuts in the House-passed *H.R. 5378, the Lower Cost More Transparency Act* as well as the Senate Finance Committee approved S. 3430, *Better Mental Health Care, Lower-Cost Drugs, and Extenders Act*.

The Medicaid DSH program is vital in assisting hospitals that serve high numbers of Medicaid and uninsured patients. More than 2,500 hospitals in the U.S. receive DSH payments to address Medicaid underpayment and uncompensated care. These payments ensure patients have access to critical services including trauma, burn care, high-risk neonatal care, and hospital access throughout natural disasters and pandemic events.

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<sup>1</sup> FAH Blog on Site Neutral: April 23, 2023. <https://www.fah.org/blog/stronguwhats-in-a-name-because-thereisnothing-neutral-about-site-neutral-policyustrong/>.

<sup>2</sup> <https://www.aha.org/guidesreports/2023-03-27-comparison-medicare-beneficiary-characteristicsreport>

<sup>3</sup> <https://www.aha.org/system/files/media/file/2024/01/medicare-significantly-underpays-hospitals-for-cost-of-patient-care-infographic.pdf>

The scheduled cuts, totaling \$8 billion<sup>4</sup> in reductions to hospital payments, impact our nation's most vulnerable patients and providers. A delay in implementation will provide facilities with the necessary support to continue delivering care and crucial services. We urge Congress to continue their good work supporting the health care safety net by enacting a two-year delay of the DSH cuts in upcoming government funding legislation.

**As Congress looks beyond government funding negotiations to the remainder of the second session of the 118<sup>th</sup> Congress, there are several healthcare priorities that need to be addressed to ensure patients have continued access to 24/7 hospital care. The FAH encourages Congress to consider the following legislation before the end of 2024:**

### **Rein in Abuses of Prior Authorization in Medicare Advantage (MA) Plans**

The FAH is increasingly concerned by the alarming practices of Medicare Advantage (MA) plans that harm patients by eroding access to and affordability of medically necessary care. Abusive practices by MA plans include systematically inappropriately denying, limiting, and delaying the delivery of or access to services and care. This behavior often requires hospitals and caregivers to divert precious resources and time to respond to care denials and delay tactics.

We urge Congress to protect MA beneficiaries through prior authorization reforms and increased reporting standards by enacting the *Improving Seniors' Timely Access to Care Act*.

Enacting this legislation would reduce the burden and complexity of prior authorization requirements imposed by MA plans and will help seniors access the care they need in a timely manner, while also reducing the unnecessary burdens on doctors, hospitals, and our healthcare workforce.

### **Extend the Medicare Dependent Hospital (MDH) and Low Volume Hospital (LVH) Adjustment Payment Programs to Support Rural Hospitals**

Rural hospitals play a pivotal role in providing access to care for over 60 million Americans in underserved communities.

Congress reauthorized the Low Volume Hospital (LVH) and Medicare-dependent Hospital (MDH) payment programs in the Consolidated Appropriations Act of 2023, which extended the programs for two years, until September 30, 2024.

Congress must now act again to reauthorize the LVH and MDH payment programs before they expire at the end of the fiscal year. We urge Congress to take the necessary steps to help ensure the long-term fiscal stability of rural hospitals by extending these two crucial rural hospital payment programs for another two years.

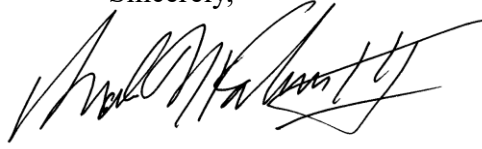
We appreciate Congress' commitment to bipartisan solutions that prioritize the needs of the American people, and we look forward to working with you as you take the enclosed policy proposals under consideration to protect patient care and support hospitals across the country.

Please feel free to contact me or any member of my staff at (202) 624-1534 to discuss these important issues further.

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<sup>4</sup> <https://www.fah.org/wp-content/uploads/2023/03/HALO-Letter-on-Medicaid-DSH-Cuts-March-2023.pdf>

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Hanft". The signature is fluid and cursive, with a large initial "A" and a distinct "H" at the end.

CC: The Honorable Richard Durbin, The Honorable John Thune, The Honorable Steve Scalise,  
The Honorable Katherine Clark