



Charles N. Kahn III
President and CEO

February 26, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, S.W.
Washington, DC 20201

**Re: Medicare Program: Appeal Rights for Certain Changes in Patient Status
[CMS-4204-P]**

Dear Administrator Brooks-LaSure:

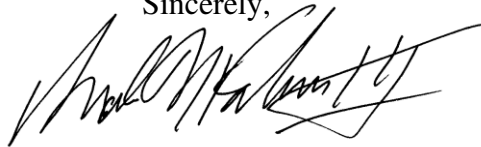
The Federation of American Hospitals (FAH) is the national representative of more than 1,000 leading tax-paying hospitals and health systems throughout the United States. The FAH members provide patients and communities with access to high-quality, affordable care in both urban and rural areas across 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. The FAH appreciates the opportunity to submit comments to the Centers for Medicare & Medicaid Services (CMS) regarding its proposed rule entitled Appeal Rights for Certain Changes in Patient Status (Proposed Rule), 88 Fed. Reg. 89,506 (Dec. 27, 2023).

The FAH generally supports CMS' proposed process for handling retrospective appeals, but is concerned about the difficulties that hospitals may face in submitting and obtaining payment on a Part A inpatient claim following a favorable decision for a beneficiary. On the one hand, the availability of coverage and payment for inpatient hospital care should be apparent for any of these claims because they will each follow a final decision that explains the reason the hospital admission satisfied the relevant criteria for Part A coverage and the application of pertinent laws, regulations, coverage rules, and CMS policies to the facts of the case. Nonetheless, hospitals may face significant barriers to submitting claims for these services, particularly in cases where the services were furnished long ago. These cases may involve care furnished over a decade ago and documented on paper records or in a legacy electronic health records system that is no longer readily accessible. And, in some cases, records may not have been retained given the number of years that have passed and the limits on record retention requirements.

Therefore, the FAH urges CMS to explore every option available to facilitate the submission of claims and provision of Part A payment for inpatient hospital care following a favorable retrospective decision for a beneficiary in a manner that minimizes hospitals' burdens. In particular, we ask CMS to explore the extent to which the notice of decision may itself be sufficient to adjudicate a Part A claim following a retrospective appeal, to create a streamlined claims submission process for these cases that leverages the determination of inpatient coverage, and to expressly permit a hospital to rely on the notice of decision in seeking payment.

The FAH appreciates the opportunity to submit these comments on this important issue. If you have any questions, please contact me or any member of my staff at (202) 624-1500.

Sincerely,

A handwritten signature in black ink, appearing to be "Andrew M. ...". The signature is fluid and cursive, with a large initial "A" and "M".