



Charles N. Kahn III
President and CEO

The Honorable Tammy Baldwin
Chair, Subcommittee on Labor,
Health and Human Services, Education,
and Related Agencies
United States Senate
Washington D. C. 20510

The Honorable Shelley Moore Capito
Ranking Member, Subcommittee on Labor,
Health and Human Services, Education,
and Related Agencies
United States Senate
Washington D. C. 20510

Dear Chair Baldwin and Ranking Member Capito:

The Federation of American Hospitals (FAH) is pleased to provide the following statement in support of including language in the Fiscal Year 2025 (FY25) Appropriations bill directing the Centers for Medicare and Medicaid Services (CMS) to provide compliance guidance for allied health professional residency programs operated by hospitals.

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. Tax-paying hospitals account for approximately 20 percent of community hospitals nationally.

Allied health professional residency programs are crucial for developing a strong health care workforce. These residency programs provide recent graduates and experienced professionals in allied health fields with additional education and hands-on experiences in specialized areas of practice. These programs enhance clinical skills, critical thinking abilities, and leadership qualities while preparing allied health professionals for advanced roles within their respective disciplines.

In 2019, CMS changed its auditing procedure to fundamentally shift the requirements for allied health residency programs. However, CMS did not provide guidance for residency programs to ensure they are able to comply with the new auditing procedure.

Specifically, auditors have begun using a so-called “direct control” requirement (42 C.F.R. §413.85) to disallow funding for everything from off-site clinical rotations at other hospitals within a health system, to the use of a health system’s name on a pharmacy residency program, to use of shared educational resources, and even for use of shared human resources and payroll across a health system, despite the fact the program regulations explicitly allow for such shared services and CMS has provided no guidance to the contrary.

As a result, programs have no way to determine if they will have their funding clawed back, despite long previous histories of clean audits. Residency programs should not lack clarity on how to comply and should not be punished financially because CMS has not communicated compliance requirements. To address this issue, we ask for the inclusion of the following language proposed by Senator Amy Klobuchar (D-MN) in the forthcoming Labor, Health and Human Services, and Education Appropriations Act for FY 2025:

Sec. ____. None of the funds appropriated by this act may be used by the Department of Health and Human Services to claw back Medicare passthrough payments for allied health worker training, pharmacy residency, and clinical pastoral education programs until final guidance is issued providing compliance assistance to pharmacy, clinical pastoral education, or other allied health worker residency programs, including guidance to hospital program operators that are part of larger health systems, about how programs can utilize shared services that improve efficiency of operation and/or education experience (i.e., payroll, common educational materials) while still demonstrating programmatic control

Additionally, we recommend the inclusion of the following report language expressing the Committee’s concerns about the change in procedure and urging the Department of Health and Human Services (HHS) to provide clear compliance guidance to allied health worker training programs:

Allied Health Worker Education and Training Program Compliance. —The Committee considers Medicare Administrative Contractors’ (MACs) clawback of Medicare passthrough funds to hospitals for the operation of pharmacy residency, clinical pastoral education, and other allied health education programs that train tomorrow’s pharmacists, clinical pastoral counselors, and other health professionals to be inconsistent and problematic. By law Medicare reimburses hospitals for the expenditures of nursing and allied health education programs, such as pharmacy residency and clinical pastoral education programs, that hospitals have direct control over. However, HHS has not provided compliance guidance of what are indicators of direct control. As a result, MACs have been applying inconsistent standards. Providing compliance guidance will facilitate consistency in enforcement and enable hospitals to comply with the requirements of 42 C.F.R. §413.85. In light of the confusion the current enforcement framework has caused, the Committee strongly urges HHS to issue guidance before allowing clawing back of funds by MACs. Guidance should provide compliance assistance to pharmacy residency, clinical pastoral education, and other allied health

professional training programs, including guidance to hospital program operators that are part of larger health systems, about how programs can utilize shared services, or affiliations with educational institutions, that improve efficiency of operation or education experience (i.e., payroll services, common educational materials) while still demonstrating programmatic control.

By incorporating this language into the FY25 Labor, Health and Human Services, and Education Senate appropriations bill and accompanying report, we can help to ensure that hospitals and allied health professional residency programs receive the support and guidance to continue their work without undue financial burdens. We look forward to working with the Committee on this critical issue. If you have any questions or want to discuss these comments further, please contact Charlene MacDonald at (202) 615-0599.