



TEXAS HOSPITAL ASSOCIATION

March 9, 2009

Federal Docket Management System Office  
1160 Defense Pentagon  
Washington, DC 20301-1160

Re: Docket DOD-2007-HA-0048; RIN 0720-AB19; Department of Defense; Hospital Outpatient Prospective Payment System; Delay of Effective Date and Additional Opportunity for Public Comment; (Federal Register 74, No. 24), February 6, 2009.

To Whom It Concerns:

On behalf of its more than 500 member hospitals, the Texas Hospital Association is writing to express its comments concerning the TRICARE hospital outpatient prospective payment system final rule. Prior to providing specific recommendations, THA thanks you for reopening for comment the December 10, 2008, final rule.

With Texas being home to at least 24 major military installations, hospitals throughout Texas have taken great pride in providing care for the growing needs of our nation's military personnel and their families. Texas hospitals are concerned that the immediate and sharp reduction in payments under the OPSS will have a serious negative impact on facilities serving the TRICARE population, and ultimately could impact access to care and the health of local economies. The financial impact will be especially devastating for hospitals in areas near major military bases with large TRICARE populations such as Abilene, Austin/San Antonio, Corpus Christi, El Paso, Fort Worth, Killeen/Temple and San Angelo.

**Recommendation # 1**

THA strongly urges that the final rule be reissued with changes that would implement the TRICARE OPSS in a manner that is **budget neutral to the current TRICARE payment amount** for hospital outpatient services. Based on DoD's own analyses, outpatient hospital payments will be reduced by 25 percent from pre-OPSS levels. Additional analyses by member hospitals indicate the reduction for hospitals in Texas will be substantially higher – reaching between 40 and 50 percent in the first year alone. Texas hospitals stand to lose almost \$35 million-\$50 million per year!

This approach would be consistent to the approach Medicare took when it implemented its OPSS system. When Medicare implemented its outpatient system, it did **not** cut hospital payments for services provided to seniors. Likewise, the Department of Defense should not cut hospital payments for military servicemen and women and their families. This recommendation will allow the DoD to work out any operational or policy issues in the first year without having to focus on the impact of significant payment reductions for providers.

### **Recommendation # 2**

THA strongly urges that the Department of Defense ease the transition to the TRICARE OPSS by limiting the annual amount by which reimbursement rates may fall in years following the initial budget-neutral implementation year. DoD should **adopt a meaningful, effective transition** that covers all outpatient services, along the lines of the 15 percent service-specific stop-loss that it adopted for physicians when TRICARE adopted the Medicare physician fee schedule. As a result, the originally higher physician payment rates were gradually reduced over a period of several years until they were consistent with Medicare rates. If the OPSS is not budget neutral, this transition is critical for hospitals to gradually absorb the substantial losses without risking a disruption in services. The transition period DoD included in its initial rule is inadequate.

### **Recommendation # 3**

One DoD – proposed option states that a temporary payment deviation may be granted should the OPSS payment system be impractical to support military readiness or contingency operation. THA strongly urges that this requirement be clarified to **allow exceptions at any time** to ensure the military is prepared to perform its mission – not just in times of ongoing operations.

### **Recommendation # 4**

THA strongly urges DoD to put additional protections into place for hospitals that have a disproportionate share of TRICARE patients. The director should be allowed to grant not only a “temporary deviation” but also be **allowed to grant a more permanent exclusion** from OPSS. Under the final rule Cancer and children’s hospitals will continue to be reimbursed on a fee-for-service basis using billed charges and CMAC rates. If the director determines that a hospital’s participation in TRICARE is essential to support military readiness, the director should be given the ability to grant the same permanent exclusion for a hospital to support military readiness as has been made for Cancer and children’s hospitals.

TRICARE is an important component in providing needed health care services to military personnel and their families. The size of the proposed cut is unprecedented and comes at one of the most economically challenging times in recent history. It is a major financial commitment for a hospital to participate in TRICARE. The implementation of the December 2008 final rule, as published, will place an insurmountable financial burden on community hospitals that are already faced with increased costs due to the growing number of uninsured in Texas.

Thank you for allowing the Texas Hospital Association to submit these comments. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Schirmer". The signature is fluid and cursive, with a long horizontal stroke at the end.

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