



A PATIENT-CENTERED FORUM OF NATIONAL ADVOCACY ORGANIZATIONS ADDRESSING PUBLIC POLICY ISSUES IN CANCER

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October 8, 2002

Thomas A. Scully, Administrator  
Centers for Medicare & Medicaid Services  
200 Independence Avenue, S.W.  
Room 445-G – HHH Bldg.  
Washington, D.C. 20201

RE: CMS-1206-P

Dear Mr. Scully:

The undersigned organizations representing cancer patients, providers and researchers offer the following comments on the proposed rule for the Medicare hospital outpatient prospective payment system (HOPPS), published in the Federal Register August 9, 2002. If the proposed rule is adopted without change, we fear there will be an immediate and dramatic negative impact on access of cancer patients to quality care.

Roughly 20% of cancer care is delivered in the hospital outpatient setting. Most cancer drugs are currently reimbursed pursuant to a “pass-through” provision established in statute. The proposed rule would terminate pass-through status for many cancer drugs effective December 31, 2002. As a result, many cancer drugs may be reimbursed by Medicare at a level that will create a disincentive to the use of those drugs in hospital outpatient departments.

There is tremendous concern among cancer patients and providers that sharp declines in payment levels for cancer drugs will adversely affect cancer care in the United States by creating disincentives to the use of therapies that the system does not adequately reimburse. Barriers to quality care may have severe consequences for those battling life-threatening diseases like cancer. We are aware that the Congress is focusing on potential dislocations in patient care that may result from flaws in the HOPPS methodology. Yet this is an extremely complicated issue requiring time for consideration by both the Congress and the Administration.

No one will be served by drastic shifts in reimbursement for life-saving products. Instead, the Medicare program should utilize whatever options may be at its disposal to preserve the current reimbursement status of these critically important drugs while the Congress takes time to deliberate a comprehensive solution to a longstanding and growing problem.

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We understand that Medicare has the option of continuing pass-through payments for all currently eligible drugs for the full three-year period from the implementation date of August 1, 2000, with the result that such payments could remain in place until July 31, 2003. This delay in reimbursement status would give Congress time to evaluate the shortcomings of the current HOPPS methodology and to devise appropriate statutory changes.

New drugs for the treatment of various cancers offer impressive promise for patients previously deprived of hope. We know, however, that underpayment for these drugs can seriously affect access to quality care. We strongly urge Medicare to postpone changes to the HOPPS methodology, consistent with its statutory authority, to enable Congress and the Administration to achieve a reasonable resolution of the reimbursement issues threatening quality cancer care under HOPPS.

Sincerely,

### **Cancer Leadership Council**

American Cancer Society  
American Society of Clinical Oncology  
Association of American Cancer Institutes  
Cancer Care, Inc.  
Cancer Research Foundation of America  
The Children's Cause, Inc.  
Coalition of National Cancer Cooperative Groups  
Colorectal Cancer Network

The Leukemia & Lymphoma Society  
Lymphoma Research Foundation  
Multiple Myeloma Research Foundation  
National Coalition for Cancer Survivorship  
National Patient Advocate Foundation  
North American Brain Tumor Coalition  
Ovarian Cancer National Alliance  
Us Too! International – Prostate Cancer Education  
and Support