



June 17, 2010

Marilyn Tavenner
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1498-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Dear Acting Administrator Tavenner:

On behalf of the over 44,000 members of the American Society of Anesthesiologists (ASA), I write to express our deep concern about the Centers for Medicare and Medicaid Services' (CMS) proposal to expand the number of hospitals eligible for additional "pass-through" payments for Certified Registered Nurse Anesthetist (CRNA) Services Furnished in Rural Hospitals and Critical Access Hospitals (CAHs).

As you are aware, section 2312 of the Deficit Reduction Act of 1984 (Pub. L. 98-369) provided for reimbursement to hospitals on a reasonable cost basis for the cost they incur in connection with the services of certified registered nurse anesthetists (CRNAs). These costs were to be reimbursed to hospitals on a so-called "pass-through" basis. Later amendments to the law limited such payments to only hospitals located in rural areas as defined by section 1886(d) of the Social Security Act.

Beginning in 2002, when CMS unilaterally increased the surgical volume cap for eligible rural hospitals from 500 to 800, ASA requested that CMS review the law and its subsequent regulations to determine whether regulatory changes could be made to correct the discriminatory practice of excluding anesthesiologists from receiving the same rural pass-through payments that other anesthesia providers receive. Failure to provide equitable payments to anesthesiologists prevents patients in rural settings from receiving access to high-level anesthesia services, such as pain medicine and critical care, which CRNAs are not trained or licensed to provide. In fact, the current rural pass-through payment regulation actually discourages rural hospitals from employing or contracting with anesthesiologists. Further, without access to services of a physician anesthesiologist, rural hospitals are often forced to transfer many complex surgical patients, such as those with multiple chronic conditions, to larger, urban hospitals, often at greater risk and/or inconvenience to the patient.

The status of the current law and subsequent regulations establishes a virtual monopoly for the provision of anesthesia services in the rural setting, since without the provision of the pass-through payments, the volume of anesthesia services would not generally be enough to provide adequate reimbursement for the services of any single anesthesia provider. Given this current situation, **ASA urges CMS to not finalize its proposal to expand the number of hospitals that could be eligible for rural pass-through payments until all anesthesia providers are eligible to receive such payments.** ASA believes such restraint is especially warranted given the Agency's admitted inability to determine the number of facilities that would be impacted.

Therefore, prior to any expansion of eligibility to more hospitals, **ASA strongly recommends that rural pass-through payments be made available to anesthesiologists for services furnished in rural hospitals and CAHs.** If after review of the law and its subsequent amendments, CMS determines, and makes public, that they are unable to enact the necessary regulatory changes to correct the current inequity, **ASA urges CMS to strongly recommend to Congress that the statute be amended.** Further, if CMS is unable to determine the number of facilities that would meet the established thresholds to be eligible for the rural pass-through payments, prior to any expansion, **the Agency should make available a list of the hospitals or CAHs that would have been eligible to receive such payments if the current proposal was applied in previous years.** This recommendation would provide the public with an understanding of the type and number of hospitals impacted by such a change in regulation.

Thank you for your consideration of our comments and we look forward to working with CMS to ensure that all patients have access to the full range of high quality anesthesia services, regardless of their location. If you have questions or need additional information on this issue, please contact our Assistant Director of Federal Affairs, Chip Amoe, JD, MPA, in our Washington, DC office at c.amoe@asawash.org or (202) 289-2222.

Sincerely,



Alexander A. Hannenberg, M.D.

President

American Society of Anesthesiologists