IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE AMERICAN HOSPITAL ASSOCIATION, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, MERCY HEALTH MUSKEGON, CLALLAM COUNTY PUBLIC HOSPITAL NO. 2 d/b/a/ OLYMPIC MEDICAL CENTER, and YORK HOSPITAL,

Plaintiffs,

v.

ALEX M. AZAR II,
in his official capacity as SECRETARY OF HEALTH AND HUMAN SERVICES,

Defendant.

Civil Action No. 1:18-cv-2841

DECLARATION OF JOANNA HIATT KIM IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Joanna Hiatt Kim, hereby declare and state the following:

1. My name is Joanna Hiatt Kim. I am over 21 years of age. I am an adult citizen of the United States. I reside in McLean, VA.

2. The facts set forth in this declaration are based on my personal knowledge and upon information available to me through the files and records of the American Hospital Association (AHA). If called upon as a witness, I could and would testify to these facts.

3. I am the Vice President, Payment Policy and Analysis of the AHA. I have served in this capacity since January 2016. From January 2013 through January 2016, my title was Vice President, Payment Policy. In both roles, I have been responsible for leading AHA's work on Medicare payment policy and initiatives, including those relating to outpatient payments. In

my capacity as Vice President. Payment Policy and Analysis, I have access to certain financial data relating to the impact on AHA's members of the clinic visit policy at issue in this lawsuit.

4. The AHA is a national, not-for-profit organization headquartered in Washington, D.C. The AHA represents and serves nearly 5,000 hospitals, health care systems, and networks, and over 43,000 individual members. Its mission is to advance the health of individuals and communities by leading, representing, and serving the hospitals, systems, and other related organizations that are accountable to the community and committed to health improvement. The AHA provides extensive education for healthcare leaders and is a source of valuable information and data on health care issues and trends. It also ensures that members' perspectives and needs are heard and addressed in national health-policy development, legislative and regulatory debates, and judicial matters. One of the critical ways in which AHA serves its mission is to protect its members' interests in connection with policy changes initiated by CMS through advocacy and litigation.

5. On behalf of its members, the AHA (with its co-plaintiffs) has filed this lawsuit challenging as *ultra vires* a payment reduction implemented by the Centers for Medicare & Medicaid Services (CMS) as part of the calendar year (CY) 2019 Medicare outpatient prospective payment system (OPPS) final rule (Final Rule).

6. Under the challenged clinic visit policy, CMS has announced that it will equalize payment for clinic visit services provided by excepted and non-excepted off-campus provider-based departments (PBDs), to be phased in over the course of two years. In CY 2019, payment for clinic visit services furnished at excepted off-campus PBDs will be reduced to 70 percent of the current OPPS payment rate. In 2020, payment to excepted off-campus provider-based departments will be fully equalized with non-excepted off-campus provider-based departments.

This will mean that payment for clinic visit services at both classes of off-campus provider-based departments will be equal to 40 percent of the then-current OPPS rate, which CMS claims approximates payment under the Medicare physician fee schedule.

7. Many of AHA's members, including the named hospital plaintiffs, have excepted off-campus PBDs and will be negatively affected by CMS's Final Rule. These hospitals will be harmed by CMS's *ultra vires* conduct if the Final Rule is allowed to stand because they will suffer a serious reduction in payment for services provided at excepted off-campus PBDs. By seeking to remedy that harm and ensure hospitals are able to provide the full range of outpatient department services in the manner that Congress intended, this action seeks to further the interests of AHA's members that are germane to its organizational purpose.

8. Many hospitals rely heavily on the structure of Medicare payments established by Congress to provide critical outpatient services for the vulnerable populations in their communities, many of whom have been historically underserved. By CMS's own estimate, payment reductions resulting from the clinic visit policy set forth in the Final Rule will total approximately $380 million in CY 2019 alone. 83 Fed. Reg. 59,014.

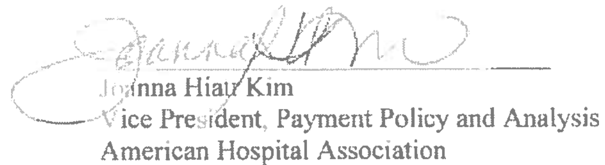
9. By reducing the payment rate for covered services provided at excepted PBDs, the Final Rule will force serious payment reductions on affected hospitals, which in turn may cause those hospitals to make difficult decisions about whether to reduce or even eliminate services. In addition, the revenue lost by hospitals will affect their ability to expand services, invest in infrastructure, and open new locations. Moreover, the payment reduction is particularly troubling for hospitals already operating at low or negative margins.

10. Off-campus provider-based departments help fill an important role in the medical-care continuum for such vulnerable and underserved patients. Because they need not be located

in immediate proximity to their affiliated hospital's main buildings, off-campus provider-based departments can be directly embedded in the communities of patients who live miles from a hospital's main campus. As a result, such off-campus provider-based departments are often *the* lifeline for access to hospital outpatient care for these patients. If hospitals are forced to reduce services at off-campus PBDs as a result of the payment cuts set forth in the Final Rule, patients that are already facing medical and/or financial barriers will be forced to travel longer distances to obtain medical care.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 24 day of January 2018.



Joanna Hiatt Kim
Vice President, Payment Policy and Analysis
American Hospital Association

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE AMERICAN HOSPITAL ASSOCIATION, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, MERCY HEALTH MUSKEGON, CLALLAM COUNTY PUBLIC HOSPITAL NO. 2 d/b/a/ OLYMPIC MEDICAL CENTER, and YORK HOSPITAL,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 1:18-cv-2841
ALEX M. AZAR II, in his official capacity as SECRETARY OF HEALTH AND HUMAN SERVICES,	)	
Defendant.	)	

DECLARATION OF JANIS M. ORLOWSKI IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Janis M. Orlowksi, hereby declare and state the following:

1. My name is Janis M. Orlowski. I am over 21 years of age and competent to testify to the facts set forth herein. I am an adult citizen of the United States. I reside in the District of Columbia.

2. The facts set forth in this declaration are based on my personal knowledge and upon information available to me through the files and records of the Association of American Medical Colleges (AAMC). If called upon as a witness, I could and would testify to these facts.

3. I am the Chief, Health Care Affairs of the AAMC. I have served in this capacity since 2013. In this role, I am responsible for all activities of the Health Care Affairs cluster, including regulatory work, data analysis in support of such work, and staffing the Council of

Teaching Hospitals and Health Systems. In my capacity as Chief, I am familiar with the impact that the clinic visit policy at issue in this lawsuit will have on AAMC's members.

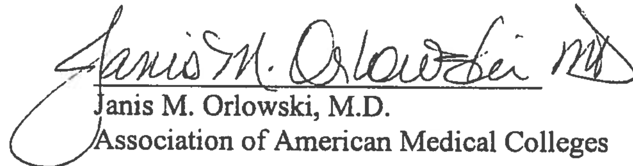
4. AAMC is a national, not-for-profit association based in Washington, D.C. The AAMC represents and serves all 152 accredited U.S. medical schools, nearly 400 major teaching hospitals and health systems, and more than 80 academic societies. Through these institutions and organizations, the AAMC represents 128,000 faculty members, 83,000 medical students, and 110,000 resident physicians. The AAMC works to improve the nation's health by strengthening the quality of medical education and training, enhancing the search for biomedical knowledge, advancing health services research, and integrating education and research into the provision of effective health care. In addition, it is one of the AAMC's core missions to advocate and litigate on behalf of its members and patients in connection with national health-policy matters.

5. On behalf of its members, the AAMC (with its co-plaintiffs) has filed this lawsuit challenging as *ultra vires* a payment reduction implemented by the Centers for Medicare & Medicaid Services (CMS) as part of the calendar year (CY) 2019 Medicare outpatient prospective payment system (OPPS) final rule (Final Rule).

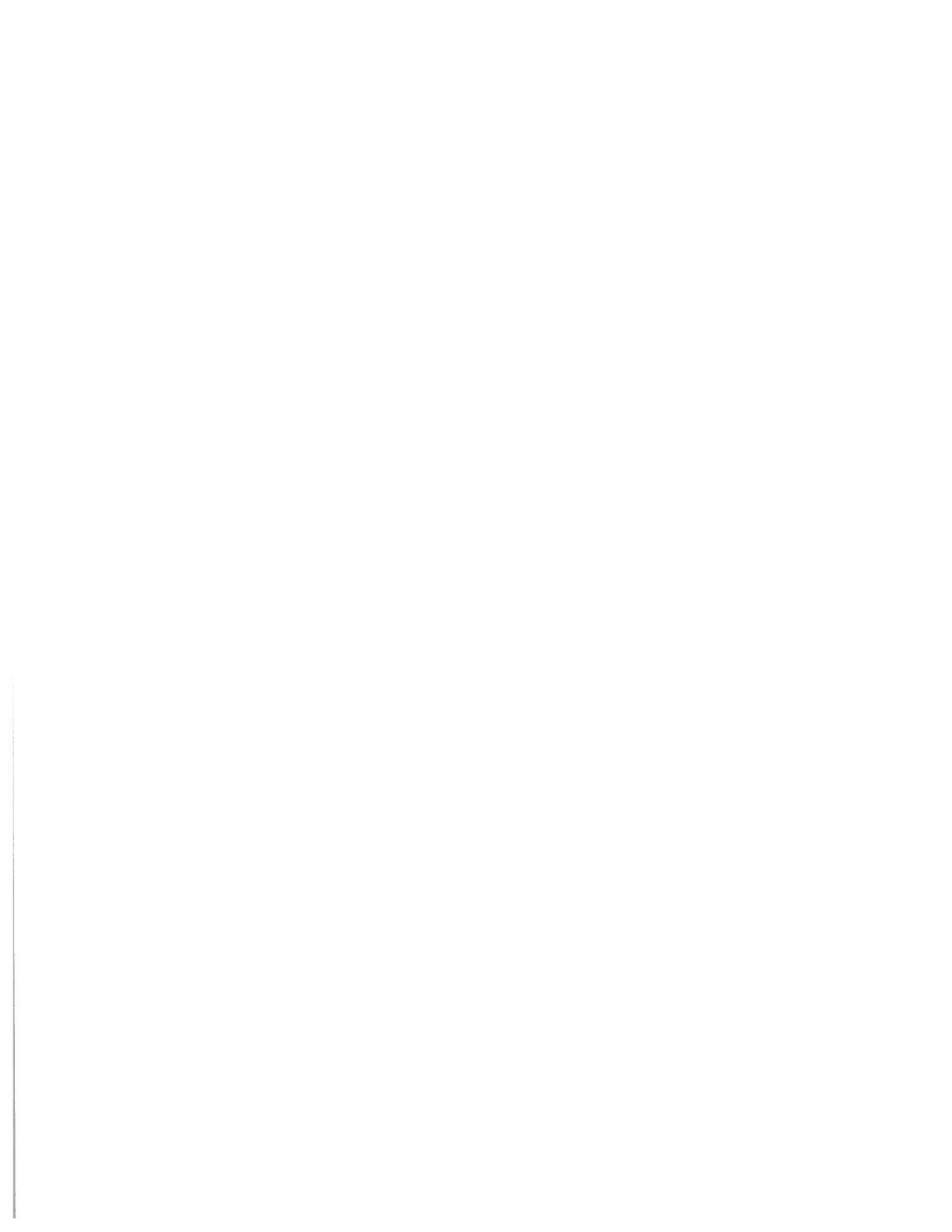
6. Many of AAMC's members have excepted off-campus provider-based departments (PBDs) and will be harmed by CMS's Final Rule if it is allowed to stand because they will suffer a serious reduction in payment for services at those excepted off-campus PBDs. By seeking to remedy that harm and ensure hospitals are able to provide the full range of outpatient department services in the manner that Congress intended, this action seeks to further the interests of AAMC's members that are germane to its organizational purpose.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 28th day of January 2019.



Janis M. Orlowski, M.D.
Association of American Medical Colleges



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE AMERICAN HOSPITAL ASSOCIATION, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, MERCY HEALTH MUSKEGON, CLALLAM COUNTY PUBLIC HOSPITAL NO. 2 d/b/a/ OLYMPIC MEDICAL CENTER, and YORK HOSPITAL,

Plaintiffs,

v.

ALEX M. AZAR II,
in his official capacity as SECRETARY OF HEALTH AND HUMAN SERVICES,

Defendant.

Civil Action No. 1:18-cv-2841

DECLARATION OF ERIC LEWIS IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Eric Lewis, hereby declare and state the following:

1. My name is Eric Lewis. I am over 21 years of age and compctent to testify to the facts set forth herein. I am an adult citizen of the United States. I reside in Sequim, Washington.

2. The facts set forth in this declaration are based on my personal knowledge and upon information available to me through the files and records of Clallam County Public Hospital District No. 2, d/b/a Olympic Medical Center (Olympic Medical Center or OMC). If called upon as a witness, I could and would testify to these facts.

3. I am the Chief Executive Officer of Olympic Medical Center. I have served in this capacity since December 2006. In this role, I am responsible for the operations of OMC and implementing Board of Commissioner approved strategic plans and budgets. In my capacity as

Chief Executive Officer, I am familiar with the impact that the clinic visit policy at issue in this lawsuit will have on OMC and its operations.

4. Olympic Medical Center is a comprehensive healthcare provider serving the North Olympic Peninsula with a network of facilities in Clallam County, Washington. OMC primarily serves the approximately 75,000 residents of Clallam County, Washington. It provides services to all patients regardless of ability or inability to pay and regardless of insurance status. Olympic Medical Center is a large rural hospital and healthcare center designated as a Sole Community Hospital and Rural Referral Center, and operates as a safety-net hospital, employing over 100 physicians and advanced practice clinicians. Of OMC's patients, 83% rely on Government-paid insurance and 58.3% rely on Medicare.

5. Olympic Medical Center is a member of the American Hospital Association.

6. Olympic Medical Center has filed this lawsuit (along with its co-plaintiffs) challenging as *ultra vires* a payment reduction implemented by the Centers for Medicare & Medicaid Services (CMS) as part of the calendar year (CY) 2019 Medicare outpatient prospective payment system (OPPS) final rule (Final Rule).

7. Olympic Medical Center furnishes outpatient services at eight excepted off-campus provider-based departments (PBDs), including a specialty physician clinic offering cardiology, gastroenterology, pulmonary medicine, neurology, urology and women's health; a sleep center; a primary care clinic; a coagulation clinic; a walk-in clinic; a cancer center providing medical oncology services and radiation oncology services in Sequim, which is 17 miles from the main hospital campus; and a primary care clinic in Port Angeles, which is approximately one mile from the hospital. Olympic Medical Center will suffer immediate and concrete harm from the outpatient-services payment reductions set forth in the Final Rule.

8. Olympic Medical Center estimates that the clinic visit policy set forth in the Final Rule will cause OMC over $1.6 million in lost revenue for CY 2019 alone. That lost revenue will impose further financial strain on OMC's already-thin operating margin. Olympic Medical Center's operating margin in 2018 was 0.3% (approximately $681,000). In 2017, OMC experienced a loss of $2.5 million (negative 1.4% margin).

9. The reductions in payments for covered Medicare-funded outpatient services OMC faces will have a significant impact, both economic and non-economic, on its operations, its patients and the greater community. For example, OMC was unable to add primary care access in Sequim despite receiving construction bids for a needed expansion to primary care clinic space on November 15, 2018. Due to the physician clinic reimbursement cuts, OMC was forced to cancel its construction project for the additional space and those needed primary care services will not be added in Sequim.

10. Because of the cancellation of the primary care construction for expanded space in Sequim, patients who are ill and suffering may be unable to obtain primary care close to home. A survey of Clallam County residents demonstrated that there are still approximately 10,000 residents who do not have a primary care provider. Those patients will go without medical services, be forced to use OMC's Emergency Department or must travel to urban areas such as Bremerton (3-4 hours of driving round trip) or Seattle (5-8 hours driving round trip via ferry) for primary care. In Clallam County, there are very few, it any physicians available who are accepting freestanding Medicare reimbursement rates.

11. OMC's primary care clinic in Port Angeles, located at 8th & Vine Street, is a medical home to 8,300 patients in Clallam County but is no longer financially viable due to its distance from OMC's hospital of more than 250 yards. OMC invested substantially in the

building at 8th & Vine Street but the Medicare physician clinic cuts render this investment a liability by jeopardizing the viability of the off-campus primary care clinic services at this location. Without primary care access and expanded services for those who need primary care, Clallam County will have more emergency department (ED) and inpatient utilization at OMC. With the reduced availability of primary care access and preventive services to Medicare enrollees, the consequence will be increased visits to OMC's hospital, poorer outcomes for patients, and a higher cost for CMS. The cut to the physician clinic expense reimbursement will prevent OMC from investing in wellness, prevention, and chronic disease management services to help reduce ED and inpatient utilization. This will undermine and potentially reverse the benefits of current highly effective and well-received measures by OMC such as partnering with our local YMCA facility to offer cardiac and pulmonary rehabilitation, smoking cessation classes, balance classes, diabetes education and other wellness services. Without a robust wellness/preventive care initiative and execution plan, OMC's efforts to keep patients from high ED and hospital utilization will fall short. Patients will suffer harm from less access, having to travel further for the needed care, experiencing worse health care outcomes.

12. Clallam County needs more Medicare hospice services including inpatient hospice; OMC submitted a Letter of Intent on a Certificate of Need for hospice services in November 2018. Without adequate Medicare physician clinic reimbursement, OMC's ability to expand services to meet the need for hospice care is in question. The community will suffer without these necessary hospice services.

13. The cuts have destabilized OMC's finances and caused immediate budget harm. In order to serve the growing population in Sequim and to serve the needs in Clallam County, OMC issued long-term debt of millions of dollars to pay to establish and maintain buildings and

facilities which meet hospital ambulatory standards. OMC's payments to its bank on the building debt will not decrease even though reimbursement will be reduced substantially due to the physician clinic cuts. OMC currently has $60 million of long-term debt which must be repaid with interest over the coming decade-plus. The Medicare cuts have caused immediate harm to OMC's ability to reasonably repay long-term debt.

14. The cuts have, in addition, substantially harmed the community, and the impact to Clallam County's rural economy has been immediately felt. The schools in the Port Angeles and Sequim school district rely on the tax revenue of citizens and OMC is a key contributor to the local economy as the largest employer in the county. OMC provides more than 1,500 jobs to the local economy. OMC has been growing to meet the needs of the community, adding more than 200 jobs over the last two years, but the cuts significantly limit OMC's ability to meet community health care needs.

15. Vacating the clinic visit policy set forth in the Final Rule and ensuring that Medicare payments for outpatient services are made in line with Congress's intent would help remedy the harm Olympic Medical Center faces from CMS's unlawful conduct.

16. On January 2 and January 3, 2019, Olympic Medical Center submitted claims for excepted off-campus physician clinic visit services covered by the Final Rule to its Medicare Administrative Contractor. The Medicare Administrative Contractor responded to those claims on January 28, 2019. OMC filed a Medicare Redetermination Request on January 28, 2019. True and correct copies of these documents are attached as Exhibit A.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Excuted this 29th day of January 2019.

Eric Lewis, Chief Executive Officer
Olympic Medical Center

Exhibit A

This is an electronic claim. The paper image below was generated for reference purposes only using paper form 30840212-CC WM HB UB04 CLAIM FORM.

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UB-04 Claim Image

Account: [redacted]

Page: 1 of 1

1 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-3903
3604177111

2 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-3903

3a Pat Cntl # [redacted]
3b Med Rec # [redacted]
4 Type of Bill: 0131
5 Fed Tax No: 916001709
6 Stmt. From: [redacted]219 Stmt To: [redacted]219
7

8 Patient Name: a / b [redacted]
9 Patient Address: a [redacted] b [redacted] c [redacted] d [redacted] e

10 Birthdate	11 Sex	12 Date	13 Hour	14 Type	15 Src	16 DHr	17 Stat	18	19	20	21	22	23	24	25	26	27	28	29 Acdt State	30
[redacted]				3	2	23	01	09												

31 Occurrence Code	Date	32 Occurrence Code	Date	33 Occurrence Code	Date	34 Occurrence Code	Date	35 Occurrence Span Code	From	Through	36 Occurrence Span Code	From	Through	37
18	[redacted]	19	[redacted]											

38 MEDICARE PART A AND B
PO BOX 6720
FARGO, ND 58108-6720

39 Value Codes Code	Amount	40 Value Codes Code	Amount	41 Value Codes Code	Amount

42 Rev. Cd	43 Description	44 HCPCS/Rates	45 Serv Date	46 Serv Units	47 Total Charges	48 Non-Covered Charges	49
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0001	PAGE 1 OF 1	CREATION DATE	010919	TOTALS	12850	000	

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58 Insured Name	59 P. Rel	60 Insured's Unique ID	61 Group Name	62 Ins. Grp. Num
[redacted]	18	[redacted]		
	18	[redacted]		

63 Treatment Auth. Codes | 64 Document Control Number | 65 Employer Name

66 Dx | 67 G4733 | 68
69 Admit Dx: G4733 | 70 Pat Reason Dx | 71 PPS Code | 72 ECI | 73

74 Prin. Procedure Code / Date | a. Other Procedure Code / Date | b. Other Procedure Code / Date | 75
c. Other Procedure Code / Date | d. Other Procedure Code / Date | e. Other Procedure Code / Date

76 Attending NPI 1700998747 Qual
Last REDDI First USHA K
77 Operating NPI Qual
Last First
78 Other NPI Qual
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79 Other NPI Qual
Last First

80 Remarks
81 CC a B3 282N00000X
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UB-04 Claim Image

Account

Page: 1 of 1

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OLYMPIC MEDICAL CENTER 939 CAROLINE STREET PORT ANGELES WA 98362-3909 3604177111	OLYMPIC MEDICAL CENTER 939 CAROLINE STREET PORT ANGELES WA 98362-3909	5 Fed Tax No. 916001709 6 Stmt. From 19 – Stmt. To 19	0131

8 Patient Name | 9 Patient Address

10 Birthdate	11 Sex	12 Date	13 Hour	14 Type	15 Src	16 DHr	17 Stat	18	19	20	21	22	23	24	25	26	27	28	29 Acdt State
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31 Occurrence Code	Date	32 Occurrence Code	Date
18		19	

38 MEDICARE PART A AND B
PO BOX 6720
FARGO, ND 58108-6720

42 Rev. Cd	43 Description	44 HCPCS/Rates	45 Serv. Date	46 Serv. Units	47 Total Charges	48 Non-Covered Charges
0510	CLINIC - GENERAL CLASSIF	G0463PO	19	1	12850	000
0001	PAGE 1 OF 1	CREATION DATE	010919	TOTALS	12850	000

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REGENCE UNIFORM MED PLA	99999-0299	Y	Y	000	000

56 NPI 1306845557

58 Insured Name	59 P. Rel	60 Insured's Unique ID	61 Group Name	62 Ins. Grp. Num
	18			
	18			

63 Treatment Auth. Codes | 64 Document Control Number | 65 Employer Name

66 Dx 0 | 67 I482 | R011 | I10 | E782 | L409

69 Admit Dx I482 | 70 Pat Reason Dx | 71 PPS Code | 72 ECI | 73

74 Prin. Procedure Code / Date | a. Other Procedure | b. Other Procedure | c. Other Procedure | d. Other Procedure | e. Other Procedure | 75

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Last LEWIS First DAVID MATTHE
77 Operating NPI Qual
78 Other NPI Qual
79 Other NPI Qual

80 Remarks

81 CC a B3 282N00000X

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UB-04 Claim Image

Account: [redacted]

Page: 1 of 1

1 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-3909
3604177111

2 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-3905

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7

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9 Patient Address a [redacted] b [redacted] c d e

10 Birthdate	11 Sex	12 Date	13 Hour	14 Type	15 Src	16 DHr	17 Stat	18	19	20	21	22	23	24	25	26	27	28	29 Acdt State	30
[redacted]			3	1	23	01	09													

31 Occurrence Code	Date	32 Occurrence Code	Date	33 Occurrence Code	Date	34 Occurrence Code	Date	35 Occurrence Span Code	From	Through	36 Occurrence Span Code	From	Through	37
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38 MEDICARE PART A AND B
PO BOX 6720
FARGO, ND 58108-6720

39–41 Value Codes (Code / Amount): blank

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0001	PAGE 1 OF 1	CREATION DATE	010319	TOTALS	12850	000	

50 Payer	51 Health Plan ID	52 Rel. Info	53 Asg. Ben	54 Prior Pymts	55 Est. Amt. Due
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REGENCE UNIFORM MED PLA	99999-0299	Y	Y	000	000

56 NPI 1306845557
57 Other Prv ID

58 Insured Name	59 P. Rel	60 Insured's Unique ID	61 Group Name	62 Ins Grp Num
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63 Treatment Auth. Codes | 64 Document Control Number | 65 Employer Name

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69 Admit Dx Z79891 | 70 Pat Reason Dx | 71 PPS Code | 72 ECI | 73

74 Prin. Procedure Code / Date | a. Other Procedure Code / Date | b. Other Procedure Code / Date | 75
c. Other Procedure Code / Date | d. Other Procedure Code / Date | e. Other Procedure Code / Date

76 Attending NPI 1770843623 Qual ZZ 207Q00000X
Last LEWIS First DAVID MATTHE
77 Operating NPI Qual Last First
78 Other NPI Qual Last First
79 Other NPI Qual Last First

80 Remarks

81 CC a B3 282N00000X
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c
d

OLYMPIC MEDICAL CENTER

Working together to provide excellence in health care.

939 Caroline Street ◆ Port Angeles, WA 98362 ◆ (360) 417-7000 ◆ www.olympicmedical.org

January 17, 2019

Noridian Healthcare Solutions
Noridian JF
900 42nd St S
PO Box 6720
Fargo, ND 58103-6720

Re: See representative Claim #1 as indicated on the attached UB-04 Claim for G0463 procedure - Admit Dx G4733
Attending NPI 1700998747 Usha Reddi on 1 /2019

Greetings:

On Nov. 21, 2018, CMS published in the Federal Register a final rule with comment period reducing Medicare payment rates for clinic visit services at certain off-campus provider-based departments (excepted off-campus PBDs). As explained in comments on the proposed rule (see 83 Fed. Reg. 59,004-15), the payment reduction exceeds the scope of the Secretary's statutory authority. The payment reduction is unlawful and *ultra vires* because it violates the statutory requirement that adjustments to payment rates be budget neutral and because it ignores the statutory distinction between excepted and non-excepted off-campus PBDs. The payment rate for the claimed services should be **$124.72.**

Olympic Medical Center hereby demands the reimbursement level which was in effect before the above referenced rule change.

Because OMC submitted this claim last week and we have not received a remittance from Noridian yet, we don't have a claim number so we are applying a 'representative number' for reference only as indicated in the Subject line above.

Sincerely,

Jennifer A. Burkhardt, JD WSBA #27437
General Counsel, CHRO

This is an electronic claim. The paper image below was generated for reference purposes only using paper form 30840212-CC WM HB UB04 CLAIM FORM

Note: This information is only for viewing. It cannot be used instead of a claim.

UB-04 Claim Image

Account:

Page 1 of 1

1 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-390
3604177111

2 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362 3

5 Fed Tax No 916001709
6 Stmt From 19 Thru 19

Patient Name
Patient Address

10 Birthdate | 11 Sex | Admission 12 Date | 13 Hour | 14 Type | 15 Src | 16 DHr | 17 Stat | Condition Codes 18–28 | 29 Acdt State

3 | 2 | 3 | 1 | 09

31 Occurrence Code / Date: 11

38 MEDICARE PART A AND B
PO BOX 6720
FARGO, ND 58108-6720

42 Rev. Cd	43 Description	44 HCPCS/Rates	45 Serv Date	46 Serv. Units	47 Total Charges	48 Non-Covered Charges
0510	CLINIC - GENERAL CLASSIF	G463PO	19	1	12850	000
0001	PAGE 1 OF 1	CREATION DATE	010919	TOTALS	12850	000

Reprocessing Claim #

50 Payer Name	51 Health Plan ID	52 Rel. Info	53 Asg Ben	54 Prior Pmts	55 Est. Amt. Due
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BCBS FEDERAL FEP	9999-0094	Y	Y	000	000

56 NPI 1306846557

58 Insured Name | 59 P Rel: 18, 18 | 60 Insured's Unique ID | 61 Group Name | 62 Ins. Group Num

63 Treatment Auth. Codes | 64 Document Control Number | 65 Employer Name

67 Dx G4733

69 Admit Dx G4733 | 70 Pat Reason Dx | 71 PPS Code | 72 ECI

74 Princ. Procedure Code / Date | a. Other Procedure | b. Other Procedure | c. Other Procedure | d. Other Procedure | e. Other Procedure

76 Attending NPI 1700996747 Last REDDI First USHA K
77 Operating NPI Last First
78 Other NPI Last First
79 Other NPI Last First

80 Remarks

81 CC a B3 282

OLYMPIC
MEDICAL CENTER

Working together to provide excellence in health care.

939 Caroline Street ◆ Port Angeles, WA 98362 ◆ (360) 417-7000 ◆ www.olympicmedical.org

January 17, 2019

Noridian Healthcare Solutions
Noridian JI
900 42nd St S
PO Box 6720
Fargo, ND 58103-6720

Re: See representative Claim #2 as indicated on the attached UB-04 Claim for G0463 procedure - Admit Dx I482
Attending NPI 1770843823 David Lewis MD on 1 2/2019

Greetings:

On Nov. 21, 2018, CMS published in the Federal Register a final rule with comment period reducing Medicare payment rates for clinic visit services at certain off-campus provider-based departments (excepted off-campus PBDs). As explained in comments on the proposed rule (see 83 Fed. Reg. 59,004-15), the payment reduction exceeds the scope of the Secretary's statutory authority. The payment reduction is unlawful and *ultra vires* because it violates the statutory requirement that adjustments to payment rates be budget neutral and because it ignores the statutory distinction between excepted and non-excepted off-campus PBDs. The payment rate for the claimed services should be **$124.72.**

Olympic Medical Center hereby demands the reimbursement level which was in effect before the above referenced rule change.

Because OMC submitted this claim last week and we have not received a remittance from Noridian yet, we don't have a claim number so we are applying a 'representative number' for reference only as indicated in the Subject line above.

Sincerely,

Jennifer A. Burkhardt, JD WSBA #27437
General Counsel, CHRO

This is an electronic claim. The paper image below was generated for reference purposes only using paper form 30840212-CC WM HB UB04 CLAIM FORM

Note: This information is only for viewing. It cannot be used instead of a claim.

UB-04 Claim Image

Account

Page: 1 of 1

1 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-390
604177111

2 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-390

3a Pat Cnt #
3b Med Rec #
4 Bill Type 131
5 Fed Tax No. 916001709
6 Stmt. From 19 Stmt. To 19

8 Patient Name
9 Patient Address

10 Birthdate | 11 Sex | 12 Date | 13 Hour | 14 Type | 15 Src | 16 DHr | 17 Stat | Condition Codes 18–28 | 29 Acdt State

31 Occurrence Code / Date: 18
32 Occurrence Code / Date
33 Occurrence Code / Date
34 Occurrence Code / Date
35 Occurrence Span Code / From / Through
36 Occurrence Span Code / From / Through

38 MEDICARE PART A AND B
PO BOX 6720
FARGO, ND 58108-6720

39 Value Codes Code / Amount
40 Value Codes Code / Amount
41 Value Codes Code / Amount

42 Rev Cd	43 Description	44 HCPCS/Rates	45 Serv Date	46 Serv Units	47 Total Charges	48 Non-Covered Charges
0510	CLINIC - GENERAL CLASS F	0463PO	19	1	12850	000
0001	PAGE 1 OF 1	CREATION DATE	010919	TOTALS	12850	

representative claim# 2

50 Payer Name	51 Health Plan ID	52 Rel Info	53 Asg Ben	54 Prior Payments	55 Est. Amt. Due
MEDICARE PART A AND B	999-0095			000	12850
REGENCE UNIFORM MED PLA	999-0299			000	000

56 NPI 1306845567
57 Other Prv ID

58 Insured Name | 59 P Rel | 60 Insured's Unique ID | 61 Group Name | 62 Ins Group Num
| 18 |
| 18 |

63 Treatment Auth. Codes | 64 Document Control Number | 65 Employer Name

66 Dx | 67 I482 | R011 | I10 | E782 | L409

69 Admit Dx I482 | 70 Pat Reason Dx | 71 PPS Code | 72 ECI | 73

74 Principal Procedure Code / Date | a. Other Procedure Code / Date | b. Other Procedure Code / Date | 75
c. Other Procedure Code / Date | d. Other Procedure Code / Date | e. Other Procedure Code / Date

76 Attending NPI 1770843871 Qual G2 107Q00000X
Last LEWIS First DAVID MATTHE
77 Operating NPI Qual
Last First
78 Other NPI Qual
Last First
79 Other NPI Qual
Last First

80 Remarks

81 CC a B3 282N00000X
b
c
d

Working together to provide excellence in health care.

939 Caroline Street ◆ Port Angeles, WA 98362 ◆ (360) 417-7000 ◆ www.olympicmedical.org

January 17, 2019

Noridian Healthcare Solutions
Noridian JI
900 42nd St S
PO Box 6720
Fargo, ND 58103-6720

Re: See representative Claim #3 as indicated on the attached UB 04 Claim for G0463 procedure - Admit Dx Z79891
Attending NPI 1770843823 David Lewis MD on 1/2/2019

Greetings:

On Nov. 21, 2018, CMS published in the Federal Register a final rule with comment period reducing Medicare payment rates for clinic visit services at certain off-campus provider-based departments (excepted off-campus PBDs). As explained in comments on the proposed rule (see 83 Fed. Reg. 59,004-15), the payment reduction exceeds the scope of the Secretary's statutory authority. The payment reduction is unlawful and *ultra vires* because it violates the statutory requirement that adjustments to payment rates be budget neutral and because it ignores the statutory distinction between excepted and non-excepted off-campus PBDs. The payment rate for the claimed services should be **$124.72.**

Olympic Medical Center hereby demands the reimbursement level which was in effect before the above referenced rule change.

Because OMC submitted this claim last week and we have not received a remittance from Noridian yet, we don't have a claim number so we are applying a 'representative number' for reference only as indicated in the Subject line above.

Sincerely,

Jennifer A. Burkhardt, JD WSBA #27437
General Counsel, CHRO

Note: This information is only for viewing. It cannot be used instead of a claim.

UB-04 Claim Image

Account: [redacted]

Page 1 of 1

1 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-390
604177111

2 OLYMPIC MEDICAL CENTER
939 CAROLINE STREET
PORT ANGELES WA 98362-390

3a Pat Cntl # [redacted]
3b Med Rec # [redacted]
4 Bill Type 0131
5 Fed Tax No 916001709
6 Stmt From [redacted] 19 Thru To [redacted] 19

Patient Name [redacted]
Patient Address [redacted]

10 Birthdate | 11 Sex | 12 Date | 13 Hr | 14 Type 1 | 15 Src 1 | 16 DHr | 17 Stat 01 | 18–28 Condition Codes 09

31 Occurrence Code 18 Date [redacted]

MEDICARE PART A AND B
O BOX 6720
ARGO, ND 58108-6720

42 Rev Cd	43 Description	44 HCPCS/Rates	45 Serv Date	46 Serv Units	47 Total Charges	48 Non-Covered Charges
0510	CLINIC - GENERAL CLASSIF	G0463PO	[redacted] 19	1	12850	000
0001	PAGE 1 OF 1	CREATION DATE	010919	TOTALS	12850	000

50 Payer Name	51 Health Plan ID	52 Rel Info	53 Asg Ben	54 Prior Payments	55 Est Amt Due
MEDICARE PART A AND B	9999-0099	Y	Y	000	12850
REGENCE UNIFORM MED PLA	9999-0299	Y	Y	000	000

56 NPI 1346845657

58 Insured Name [redacted] | 59 P. Rel 18 / 18 | 60 Insured Unique ID [redacted] | 61 Group Name [redacted] | 62 Ins Group No

63 Treatment Auth Codes | 64 Document Control Number | 65 Employer Name

66 Dx 67 Z78891 | I972 | F419 | Z79899 | R238 | I4892

69 Admit Dx Z78891 | 70 Pat Reason Dx | 71 PPS Code | 72 ECI

74 Prin. Procedure Code Date | a. Other Procedure Code Date | b. Other Procedure Code Date | 75

76 Attending NPI 1770541813 Qual ZZ 207Q00000X
Last LEWIS First DAVID MATTHE

77 Operating NPI
78 Other NPI
79 Other NPI

80 Remarks

81 CC a B3 282N00000X

Remittance Advice Part A Response
1.For best results and full-screen printing, set your printing options to print in Landscape
2.To print, select the printable version link and then print from your browser.

MEDICARE MEDA CLALLAM COUNTY PUBLIC HOSPITAL Single Claim Report
1306845557 CLALLAM COUNTY PUBLIC HOSPITAL FYE: TOB: 131 PAID DATE: 01/24/2019 DATE: TIME:

PATIENT NAME	PATIENT CNTRL NUMBER	FRM DT	COST	REPTD CHGS	DRG NBR	OUTLIER AMT	REIMB RATE	ALLOWED	INTEREST
ICN	Medicare Number	THR DT	COVD	NCVD/DENIED	DRG AMOUNT	DEDUCT	MSP PRI PAY	PROC CD AMT	PAT REFUND
CLAIM #|CLM STATUS	MEDICAL REC NUMBER	PAT ST	NCVDV	CLAIM ADJS	DRG O-C	COINS	PROF COMP	LINE ADJ AMT	PREDIEM AMT
NAME CHG=xx	Medicare Number CHG¬ TOB=xxx	CV LN	NCV L	COVD CHGS	NEW TECH	MSP LIAB MET	ESRD AMT	CONT ADJ AMT	NET. REIMB
[redacted]		[redacted]/2019	0	128.50	0	0.0	0.37	69.60	0.00
[redacted]	[redacted]	[redacted]/2019	0	0.00	0.00	0.00	0.0	0.00	0.0
[redacted]		01	0	0.0	0.0	17.76	0.0	0.0	0.0
NAME CHG=	Medicare Number CHG= TOB=131	1	0	128.50	0.0		0.0	39 72	69 60

Group, MOA, Remark and Reason Codes

MA18 ALERT: THE CLAIM INFORMATION IS ALSO BEING FORWARDED TO THE PATIESUPPLEMENTAL INSURER. SEND ANY QUESTIONS REGARDING SUPPLEMENTAL BTS TO THEM.

Welcome Sarah Manage Account Message Center 0 Sign Out

Last Login on 1/28/2019 01:52 PM CST | Failed attempts: 0

Noridian Medicare Portal

Home Contact Us Help

Eligibility or MBI Lookup | Claim Status | Appeals | Remittance Advices | Financials | Same or Similar DME | Prior Authorizations | Provider Audit | Provider Enrollment

Step 1 Redetermination/ Reopening Details | Step 2 Electronic Signature | Step 3 Add Documents | Step 4 Confirmation

Reopening/Redetermination-Confirmation

Print Friendly

Attestation

The request was successfully submitted. Print a copy of this request and save it for your records A full summary of the request will not be offered after leaving this page A confirmation number will guarantee the most accurate inquiry results

Confirmation Number: 1322240211

Status: Pending

Submitted: 01/28/2019

Provider/Supplier: CLALLAM COUNTY PUBLIC HOSPITAL

NPI: 1306845557

PTAN: 500072

TIN or SSN: 916001709

Medicare Contract: MEDA

Beneficiary:

Gender:

DOB:

Medicare Number:

Receipt Date: 01/10/2019

MSP Ind: N

Crossover Ind: Y

Last Worked Date:

Check/EFT #:

ICN: 21900300463504WAA

Status: PAID

Billed Amount: 128 50

Finalized Date: 01/23/2019

Provider/Supplier Paid Amount: 69.60

Speciality:

Total Deductible:

Comments:

On November 21, 2018, CMS published in the Federal Register a final rule with comment period reducing Medicare payment rates for clinic visit services at certain off-campus provider-based departments (excepted off-campus PBDs). As explained in comments on the proposed rule (see 83 Federal Register 59,004-15), the payment reduction exceeds the scope of the Secretary's statutory authority. The payment reduction is unlawful and ultra vires. The payment reduction for clinic visit services furnished at excepted off-campus PBDs is unlawful and ultra vires because it violates the statutory requirement that adjustments to payment rates be budget neutral and because it ignores the statutory distinction between excepted and non-excepted off campus PBDs The payment rate allowed amount for the claimed services should be $124.79 and we are therefore demanding additional payment of $37 43.

Line	From DOS	To DOS	HCPCS	Modifier	Diagnosis Code	Billed Amount
1	/2019	/2019	G0463	PO		128.50

Added Documentation

Document Name	Date Submitted	View
INITIAL DETERMINATION	01/28/2019	View Document
Original Submission	01/28/2019	View Document

Add Document

Contact Us | Portal Feedback | Alerts & Notices | System Requirements | Download Adobe Reader

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE AMERICAN HOSPITAL ASSOCIATION, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, MERCY HEALTH MUSKEGON, CLALLAM COUNTY PUBLIC HOSPITAL NO. 2 d/b/a/ OLYMPIC MEDICAL CENTER, and YORK HOSPITAL,

Plaintiffs,

v.

ALEX M. AZAR II,
in his official capacity as SECRETARY OF HEALTH AND HUMAN SERVICES,

Defendant.

Civil Action No. 1:18-cv-2841

DECLARATION OF KRISTI K. NAGENGAST IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Kristi K. Nagengast, hereby declare and state the following:

1. My name is Kristi K. Nagengast. I am over 21 years of age and competent to testify to the facts set forth herein. I am an adult citizen of the United States. I reside in Muskegon, Michigan.

2. The facts set forth in this declaration are based on my personal knowledge and upon information available to me through the files and records of Mercy Health Muskegon. If called upon as a witness, I could and would testify to these facts.

3. I am the Vice President of Finance for Mercy Health Muskegon. In this role, I am responsible for providing financial oversight and leadership to Mercy Health Muskegon. In my

capacity as Vice President of Finance, I am familiar with the impact that the clinic visit policy at issue in this lawsuit will have on Mercy Health Muskegon and its operations.

4. Mercy Health Muskegon is a Catholic nonprofit hospital that serves the greater Muskegon, Michigan area and surrounding communities. It is a teaching hospital, with more than 4,000 colleagues, and has 19,000 inpatient discharges and approximately 150,000 emergency or urgent care visits each year. Mercy Health Muskegon is a member of the American Hospital Association.

5. Mercy Health Muskegon has filed this lawsuit (along with its co-plaintiffs) challenging as *ultra vires* a payment reduction implemented by the Centers for Medicare & Medicaid Services (CMS) as part of the calendar year (CY) 2019 Medicare outpatient prospective payment system (OPPS) final rule (Final Rule).

6. Mercy Health Muskegon operates 27 off-campus PBDs, 25 of which are "excepted" off-campus PBDs. These include a sleep center, a comprehensive breast high-risk clinic, specialty clinics (including neurosurgery, cardiology, geriatrics, and gastroenterology clinics), and a number of primary care facilities capable of providing x-ray, laboratory, and pharmacy services in the same building. Mercy Health Muskegon furnishes outpatient services at these excepted off-campus PBDs and will suffer immediate and concrete harm from the outpatient-services payment reductions set forth in the Final Rule.

7. The ultimate reductions in payments for covered Medicare-funded outpatient services Mercy Health Muskegon faces will have a significant impact, both economic and non-economic, on its operations, its patients and the greater community. Mercy Health Muskegon estimates that the clinic visit policy set forth in the Final Rule will cause it to suffer a $1.8

million annual loss the first year, and a $3.6 million annual loss in future years. This equates to a 6% reduction in annual operating income the first year and a 12% reduction in future years.

8. Mercy Health Muskegon serves a community with substantial needs, and it does so while managing a challenging payor mix that is approximately 46% Medicare, 35% commercial, and 18% Medicaid, at the impacted PBD sites. Reduced payments for services provided to Medicare covered patients could impact Mercy Health Muskegon's ability to offer services and fund service lines which are particularly challenging to maintain from a financial perspective but are critically needed in our community, such as pain management, inpatient behavioral health, and the Muskegon Community Health Project (Health Project), the community health and well-being arm of Mercy Health Muskegon. This nationally recognized program does community-based work such as connecting patients and families to critically needed health and social support programs that address the social determinants of health such as housing, transportation, food security and safety. It also focuses on prevention work and supports the reductions of reoccurring health issues and readmissions for vulnerable patients. In 2019, the Health Project will require more than $3 million in direct investment from Mercy Health Muskegon in order to continue operating at its current levels.

9. Vacating the clinic visit policy contained in the Final Rule and ensuring that Medicare payments for outpatient services are made in line with Congress's intent would help remedy the harm Mercy Health Muskegon faces from CMS's unlawful conduct.

10. On January 22, 2019, Mercy Health Muskegon submitted claims for excepted off-campus physician clinic visit services covered by the Final Rule to its Medicare Administrative Contractor. The Medicare Administrative Contractor has not responded to those claims yet.

11. True and correct copies of these documents are attached as Exhibit A.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 25 day of January 2019.

By: Kristi K Nagengast

Kristi K. Nagengast, Vice President, Finance
Mercy Health Muskegon

Exhibit A

MercyHealth.com

January 22, 2018

Medicare AMI: WPS PBB
PO Box 8800
Marion, IL 62959-0800

RE: Claim For Services – [redacted], Claim #[redacted]
Tax ID #38-2589966

Dear Provider Services:

On Nov. 21, 2018, CMS published in the Federal Register a final rule with comment period reducing Medicare payment rates for clinic visit services at certain off-campus provider-based departments (excepted off-campus PBDs). As explained in comments on the proposed rule (see 83 Fed. Reg. 59,004-15), the payment reduction exceeds the scope of the Secretary's statutory authority. The payment reduction is unlawful and *ultra vires* because it violates the statutory requirement that adjustments to payment rates be budget neutral and because it ignores the statutory distinction between excepted and non-excepted off-campus PBDs. The payment rate for the claimed services should be $456.47.

Sincerely,

Michelle Lohman, Regional Director, Physician Revenue Cycle
Mercy Health

Cc: Kristi K. Nagengast, Vice President Finance
Randall M. Smith, General Counsel

General Campus
1700 Oak Avenue
Muskegon, MI 49444
231.672.2000
800.368.4125

Hackley Campus
1700 Clinton Street
Muskegon, MI 49442
231.726.3511
800.825.4677

Lakeshore Campus
72 S. State Street
Shelby, MI 49455
231.861.2156

Mercy Campus
1500 E. Sherman Boulevard
Muskegon, MI 49444
231.672.2000
800.368.4125

MERCY HEALTH MUSKEGON
1700 CLINTON ST.
MUSKEGON MI 494425502
(231) 7274444

MERCY HEALTH MUSKEGON
DEPT CH 14366
PALATINE IL 600554366
(866) 6111512

3a PAT CNTL # | b. MED. REC. # | 4 TYPE OF BILL 0131

5 FED TAX NO 382589966 | 6 STATEMENT COVERS PERIOD FROM 19 THROUGH 19 | 7

8 PATIENT NAME | 9 PATIENT ADDRESS | US

10 BIRTHDATE | 11 SEX | 12 DATE 19 | 13 HR 3 | 14 TYPE 1 | 15 SRC | 16 DHR | 17 STAT 01 | CONDITION CODES 18–28 | 29 ACDT STATE

31–34 OCCURRENCE CODE / DATE | 35–36 OCCURRENCE SPAN CODE / FROM / THROUGH | 37

38
MEDICARE AMI: WPS PBB
PO BOX 8800
MARION IL 62959-0800

39–41 VALUE CODES CODE / AMOUNT

42 REV. CD.	43 DESCRIPTION	44 HCPCS / RATE / HIPPS CODE	45 SERV. DATE	46 SERV. UNITS	47 TOTAL CHARGES	48 NON-COVERED CHARGES	49
0480	ECHOCARDIOGRAPHY - TRANS	93306 PO	19	1	540 00		
0510	HOSPITAL OP CLINIC VISIT	G0463 PO25	19	1	128 00		
0730	ECG - 12 LEAD; TRACING O	93005 PO59	19	1	65 00		
0001	PAGE 1 OF 1	CREATION DATE	19	TOTALS	733 00	0 00	

50 PAYER NAME	51 HEALTH PLAN ID	52 REL INFO	53 ASG BEN	54 PRIOR PAYMENTS	55 EST. AMOUNT DUE
MEDICARE		Y	Y	0 00	733 00
MEDICAID UBMI: INSTITU		Y	Y		

56 NPI 1831132133 | 57 OTHER PRV ID

58 INSURED'S NAME	59 P. REL	60 INSURED'S UNIQUE ID	61 GROUP NAME	62 INSURANCE GROUP NO
[redacted]	18			
[redacted]	18			

63 TREATMENT AUTHORIZATION CODES | 64 DOCUMENT CONTROL NUMBER | 65 EMPLOYER NAME

66 DX: I350 | I517 | I2510 | E785 | G4733

69 ADMIT DX | 70 PATIENT REASON DX I350 | 71 PPS CODE | 72 ECI | 73

74 PRINCIPAL PROCEDURE CODE / DATE | OTHER PROCEDURE CODE / DATE | 75

76 ATTENDING NPI 1407842362 QUAL
LAST ORAVITAN FIRST IONUT

77 OPERATING NPI QUAL
LAST FIRST

78 OTHER DN NPI 1891752168 QUAL
LAST ORAVITAN FIRST MARILENA

79 OTHER NPI QUAL
LAST FIRST

80 REMARKS | 81CC a B3 282N00000X

UB-04 CMS-1450 | NUBC | APPROVED OMB NO. 0938-0997 | THE CERTIFICATIONS ON THE REVERSE APPLY TO THIS BILL AND ARE MADE A PART HEREOF.

MercyHealth.com

January 22, 2018

Medicare AMI: WPS PBB
PO BOX 8800
Marion, IL 62959-0800

RE: Claim For Services - [redacted], [redacted] Claim #[redacted]
Tax ID #38-2589966

Dear Provider Services:

On Nov. 21, 2018, CMS published in the Federal Register a final rule with comment period reducing Medicare payment rates for clinic visit services at certain off-campus provider-based departments (excepted off-campus PBDs). As explained in comments on the proposed rule (see 83 Fed. Reg. 59,004-15), the payment reduction exceeds the scope of the Secretary's statutory authority. The payment reduction is unlawful and *ultra vires* because it violates the statutory requirement that adjustments to payment rates be budget neutral and because it ignores the statutory distinction between excepted and non-excepted off-campus PBDs. The payment rate for the claimed services should be $86.44.

Sincerely,

Michelle Lohman, Regional Director, Physician Revenue Cycle
Mercy Health

Cc: Kristi K. Nagengast, Vice President Finance
Randall M. Smith, General Counsel

General Campus
1700 Oak Avenue
Muskegon, MI 49444
231.672.2000
800 368.4125

Hackley Campus
1700 Clinton Street
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231.726.3511
800.825.4677

Lakeshore Campus
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231.861.2156

Mercy Campus
1500 E. Sherman Boulevard
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800 368.4125

MERCY HEALTH MUSKEGON
1700 CLINTON ST.
MUSKEGON MI 494425502
(231) 7274444

MERCY HEALTH MUSKEGON
DEPT CH 14366
PALATINE IL 600554366
(866) 6111512

4 TYPE OF BILL: 0131

5 FED. TAX NO.: 382589966

6 STATEMENT COVERS PERIOD FROM: [redacted]19 THROUGH: [redacted]19

8 PATIENT NAME: [redacted]

9 PATIENT ADDRESS: [redacted] US

10 BIRTHDATE: [redacted] | 11 SEX: [redacted] | 12 ADMISSION DATE: [redacted]19 | 14 TYPE: 3 | 15 SRC: 1 | 17 STAT: 01

MEDICARE AMI: WPS PBB
PO BOX 8800
MARION IL 62959-0800

42 REV. CD.	43 DESCRIPTION	44 HCPCS / RATE / HIPPS CODE	45 SERV. DATE	46 SERV. UNITS	47 TOTAL CHARGES	48 NON-COVERED CHARGES
0610	HOSPITAL OP CLINIC VISIT	G0463 PO	[redacted]19	1	128 00	
0001	PAGE 1 OF 1	CREATION DATE	[redacted]19	TOTALS	128 00	0 00

50 PAYER NAME	51 HEALTH PLAN ID	52 REL. INFO	53 ASG. BEN.	54 PRIOR PAYMENTS	55 EST. AMOUNT DUE
MEDICARE		Y	Y	0 00	128 00
PRIORITY HEALTH (MEDIC		Y	Y		

56 NPI: 1831132133

58 INSURED'S NAME	59 P. REL	60 INSURED'S UNIQUE ID	61 GROUP NAME	62 INSURANCE GROUP NO.
[redacted], [redacted]	18	[redacted]		
[redacted], [redacted]	18	[redacted]		10004

63 TREATMENT AUTHORIZATION CODES | 64 DOCUMENT CONTROL NUMBER | 65 EMPLOYER NAME

67: F329 | M533 | F17200 | R5383 | R7303

69 ADMIT DX | 70 PATIENT REASON DX: F329 | 71 PPS CODE | 72 ECI

74 PRINCIPAL PROCEDURE CODE DATE | OTHER PROCEDURE CODE DATE

76 ATTENDING NPI 1487069233 QUAL
LAST MCKINNEY FIRST KYLE

77 OPERATING NPI QUAL
LAST FIRST

78 OTHER NPI QUAL
LAST FIRST

79 OTHER NPI QUAL
LAST FIRST

80 REMARKS

81CC a: B3282N00000X

UB-04 CMS-1450 | NUBC | APPROVED OMB NO. 0938-0997 | OCR/Original

THE CERTIFICATIONS ON THE REVERSE APPLY TO THIS BILL AND ARE MADE A PART HEREOF.

MercyHealth.com

January 22, 2018

Medicare AMI: WPS PBB
PO Box 8800
Marion, IL 62959-0800

RE: Claim For Services – [redacted] I[redacted], Claim #[redacted]
Tax ID #38-2589966

Dear Provider Services:

On Nov. 21, 2018, CMS published in the Federal Register a final rule with comment period reducing Medicare payment rates for clinic visit services at certain off-campus provider-based departments (excepted off-campus PBDs). As explained in comments on the proposed rule (see 83 Fed. Reg. 59,004-15), the payment reduction exceeds the scope of the Secretary's statutory authority. The payment reduction is unlawful and *ultra vires* because it violates the statutory requirement that adjustments to payment rates be budget neutral and because it ignores the statutory distinction between excepted and non-excepted off-campus PBDs. The payment rate for the claimed services should be $86.44.

Sincerely,

Michelle Lohman, Regional Director, Physician Revenue Cycle
Mercy Health

Cc: Kristi K. Nagengast, Vice President Finance
Randall M. Smith, General Counsel

General Campus
1700 Oak Avenue
Muskegon, MI 49444
231.672.2000
800.368.4125

Hackley Campus
1700 Clinton Street
Muskegon, MI 49442
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800.825.4677

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231.861.2156

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Muskegon, MI 49444
231.672.2000
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MUSKEGON MI 494425502
(231) 7274444

MERCY HEALTH MUSKEGON
DEPT CH 14366
PALATINE IL 600554366
(866) 6111512

4 TYPE OF BILL: 0131

5 FED. TAX NO: 382589966

6 STATEMENT COVERS PERIOD FROM: 19 THROUGH: 19

8 PATIENT NAME

9 PATIENT ADDRESS ... US

10 BIRTHDATE | 11 SEX | 12 ADMISSION DATE: 19 | 13 HR | 14 TYPE: 3 | 15 SRC: 1 | 16 DHR | 17 STAT: 01

MEDICARE AMI: WPS PBB
PO BOX 8800
MARION IL 62959-0800

42 REV. CD.	43 DESCRIPTION	44 HCPCS / RATE / HIPPS CODE		45 SERV. DATE	46 SERV. UNITS	47 TOTAL CHARGES	48 NON-COVERED CHARGES
0510	HOSPITAL OP CLINIC VISIT	G0463	PO	19	1	128 00	
0001	PAGE 1 OF 1	CREATION DATE		19	TOTALS	128 00	0 00

50 PAYER NAME	51 HEALTH PLAN ID	52 REL. INFO	53 ASG. BEN.	54 PRIOR PAYMENTS	55 EST. AMOUNT DUE
MEDICARE		Y	Y	0 00	128 00
GERBER LIFE INSURANCE		Y	Y		

56 NPI: 1831132133

58 INSURED'S NAME	59 P. REL	60 INSURED'S UNIQUE ID	61 GROUP NAME	62 INSURANCE GROUP NO.
	18			
	18			PLAN G

63 TREATMENT AUTHORIZATION CODES | 64 DOCUMENT CONTROL NUMBER | 65 EMPLOYER NAME

67: G309 | E1165 | I10 | I5032 | G4700 | Z111 | G2581 | R1310

69 ADMIT DX | 70 PATIENT REASON DX: G309 | 71 PPS CODE | 72 ECI

74 PRINCIPAL PROCEDURE CODE DATE | OTHER PROCEDURE CODE DATE

76 ATTENDING NPI 1457607806 QUAL
LAST BAILEY FIRST DENISE

77 OPERATING NPI QUAL
LAST FIRST

78 OTHER NPI QUAL
LAST FIRST

79 OTHER NPI QUAL
LAST FIRST

80 REMARKS

81CC a: B3282N00000X

UB-04 CMS-1450 APPROVED OMB NO. 0938-0997 NUBC

THE CERTIFICATIONS ON THE REVERSE APPLY TO THIS BILL AND ARE MADE A PART HEREOF.

MercyHealth.com

January 22, 2018

Humana Gold Plus (Medicare Replacement H)
PO Box 14601
Lexington, KY 40512-4601

RE: Claim For Services – [redacted], Claim #[redacted]
Tax ID#38-2589966

Dear Provider Services:

On Nov. 21, 2018, CMS published in the Federal Register a final rule with comment period reducing Medicare payment rates for clinic visit services at certain off-campus provider-based departments (excepted off-campus PBDs). As explained in comments on the proposed rule (see 83 Fed. Reg. 59,004-15), the payment reduction exceeds the scope of the Secretary's statutory authority. The payment reduction is unlawful and *ultra vires* because it violates the statutory requirement that adjustments to payment rates be budget neutral and because it ignores the statutory distinction between excepted and non-excepted off-campus PBDs. The payment rate for the claimed services should be $110.21.

Sincerely,

Michelle Lohman, Regional Director, Physician Revenue Cycle
Mercy Health

Cc: Kristi K. Nagengast, Vice President Finance
Randall M. Smith, General Counsel

General Campus
1700 Oak Avenue
Muskegon, MI 49444
231.672.2000
800.368.4125

Hackley Campus
1700 Clinton Street
Muskegon, MI 49442
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Lakeshore Campus
72 S. State Street
Shelby, MI 49455
231.861.2156

Mercy Campus
1500 E. Sherman Boulevard
Muskegon, MI 49444
231.672.2000
800.368.4125

MERCY HEALTH MUSKEGON
1700 CLINTON ST.
MUSKEGON MI 494425502
(231) 7274444

MERCY HEALTH MUSKEGON
DEPT CH 14366
PALATINE IL 600554366
(866) 6111512

4 TYPE OF BILL: 0131

5 FED TAX NO: 382589966

6 STATEMENT COVERS PERIOD FROM: 19 THROUGH: 19

3a PAT. CNTL #: H56782387

8 PATIENT NAME

9 PATIENT ADDRESS: US

10 BIRTHDATE | 11 SEX | 12 ADMISSION DATE: 19 | 13 HR | 14 TYPE: 3 | 15 SRC: 1 | 16 DHR | 17 STAT: 01

HUMANA GOLD PLUS (MEDICARE REPLACEMENT H
PO BOX 14601
LEXINGTON KY 40512-4601

42 REV. CD.	43 DESCRIPTION	44 HCPCS / RATE / HIPPS CODE	45 SERV. DATE	46 SERV. UNITS	47 TOTAL CHARGES	48 NON-COVERED CHARGES
0510	HOSPITAL OP CLINIC VISIT	G0463	19	1	128 00	
0001	PAGE 1 OF 1	CREATION DATE	19	TOTALS	128 00	0 00

50 PAYER NAME	51 HEALTH PLAN ID	52 REL. INFO	53 ASG. BEN.	54 PRIOR PAYMENTS	55 EST. AMOUNT DUE	56 NPI
HUMANA GOLD PLUS (MED		Y	Y	0 00	128 00	1831132133

58 INSURED'S NAME | 59 P. REL: 18 | 60 INSURED'S UNIQUE ID | 61 GROUP NAME | 62 INSURANCE GROUP NO.

63 TREATMENT AUTHORIZATION CODES | 64 DOCUMENT CONTROL NUMBER | 65 EMPLOYER NAME

67: D649 | M159 | C61 | I429 | M545 | R634

69 ADMIT DX | 70 PATIENT REASON DX: D649 | 71 PPS CODE | 72 ECI

74 PRINCIPAL PROCEDURE CODE DATE | OTHER PROCEDURE CODE DATE

76 ATTENDING NPI: 1508843251 QUAL
LAST: WESTERHOF FIRST: STEVE

77 OPERATING NPI QUAL LAST FIRST
78 OTHER NPI QUAL LAST FIRST
79 OTHER NPI QUAL LAST FIRST

80 REMARKS | 81 CC a b c d