

Congress of the United States
Washington, DC 20515

September 9, 2016

The Honorable Andy Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Acting Administrator Slavitt,

On behalf of the twenty-two small rural hospitals throughout the State of Louisiana, we write to express our concerns regarding the negative impact a recent Medicaid rule interpretation by the Centers for Medicare and Medicaid Services (CMS) is having on our Louisiana rural hospitals. Given the direct and detrimental impact CMS's interpretation of this rule is having throughout the state, we are requesting that CMS thoughtfully reconsider its decision on this matter.

As you likely know, CMS approved the distribution of Disproportionate Share Hospital (DSH) funds from 2011 to Louisiana's small rural hospitals (under 60 beds) as required under the Medicaid State Plan Amendment (SPA). We have enclosed a copy of the SPA here for your convenience. Under provisions of the SPA, DSH payments were made to qualifying small rural hospitals prospectively, based upon estimates of their future, Uncompensated Care Costs (UCC) incurred. These estimates were also subject to retrospective audit to verify accuracy. If the audit ultimately determined that any hospital recipient of these DSH payments were, in fact, overpaid, then those hospitals were required to return the overpayment amount to CMS, as required by the SPA. To date, and to our best knowledge, the majority of overpayments have now been recouped by CMS. Furthermore, you are also likely aware that following DSH fund recoupment, the SPA subsequently authorized redistribution of those recouped overpayments to the hospitals that the audit specifically determined had been underpaid.

Unfortunately, as a result of CMS's interpretation of the rule, the Louisiana Department of Health and Hospitals (LDHH), which administers the Medicaid program in Louisiana, has since been prohibited from proceeding with the redistribution of the recouped DSH funds to those hospitals that were underpaid. More specifically, at the time LDHH was prepared to begin the distribution of recouped DSH funds to underpaid hospitals, LDHH was advised by the CMS Dallas Regional Office that additional interpretation of the aforementioned rule by CMS indicated that LDHH was subject to a deadline of December 31, 2015, by which time all DSH fund redistributions must be completed. Given LDHH was not aware of this until the deadline had already passed, the redistribution of more than \$5.5 million to underpaid Louisiana hospitals has since been disallowed.

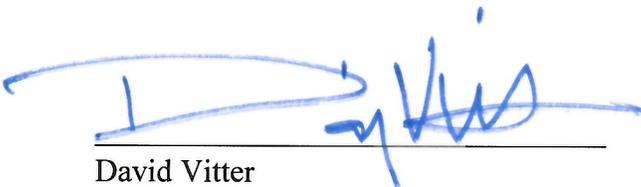
We respectfully request that CMS reconsider its interpretation of this rule, thereby allowing LDHH to redistribute these recouped DSH funds to those hospitals that were determined by the audit to be

underpaid. Moreover, it seems counterintuitive that LDHH not be allowed to redistribute the recouped DSH funds to those hospitals that were found to have been underpaid, given the purported purpose of the DSH fund recoupment was specifically so that these funds could be redistributed. Additionally, it is important to note that the SPA makes no referral to any time limit or deadline that would indicate the redistribution of recouped DSH funds to affected hospitals was restricted to the single year following the DSH audit.

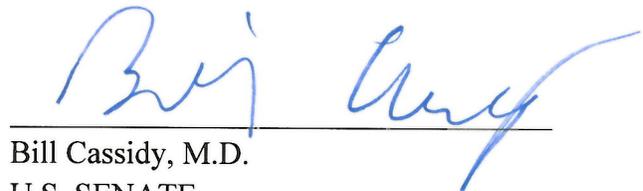
We are sure that you are aware of the plight of rural hospitals all over the United States. In Louisiana, many of our small rural hospitals are struggling to simply remain open. Allowing the redistribution of these overpayments to these 22 hospitals would go a long way toward stabilizing the financial situation of these hospitals in the rural parishes of our state.

We respectfully urge CMS to reconsider this decision, allowing the redistribution of these funds as intended by the SPA that your agency approved.

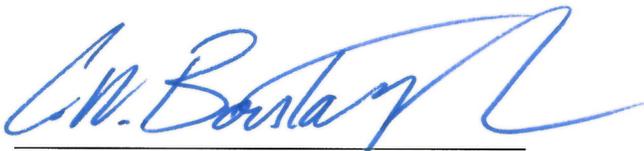
Sincerely,



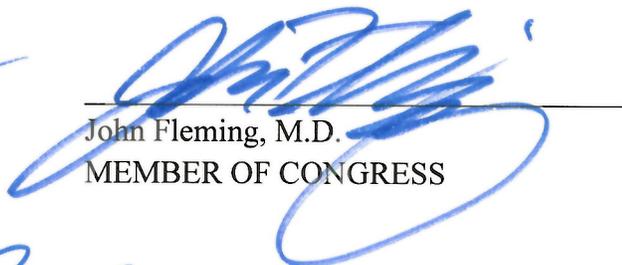
David Vitter
U.S. SENATE



Bill Cassidy, M.D.
U.S. SENATE



Charles W. Boustany Jr., M.D.
MEMBER OF CONGRESS



John Fleming, M.D.
MEMBER OF CONGRESS



Ralph Abraham, M.D.
MEMBER OF CONGRESS

Enclosure

cc: Lisa McAdams, M.D., Acting Deputy Regional Administrator, Dallas