August 29, 2022

Chiquita Brooks-LaSure, Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-3419-P
P.O. Box 8016
Baltimore, MD 21244-8010

Re: File Code CMS-3419-P - Medicare and Medicaid Programs; Conditions of Participation for Rural Emergency Hospitals (REH) and Critical Access Hospital CoP Updates

Submitted electronically to https://www.regulations.gov

Dear Administrator Brooks-LaSure:

The Critical Access Hospital Coalition submits the following comments on the proposed changes to the requirements for CAHs to participate in the Medicare and Medicaid programs, most notably the proposed changes to the definition of primary roads and the proposed review process.

Congress created the CAH designation in the Balanced Budget Act of 1997 (Public Law 105-33) and has amended the CAH designation and related program requirements several times through additional legislation. The location requirements have remained consistent.

CAHs must be located in rural areas and must meet one of the following criteria:

- Be more than a 35-mile drive from another hospital, or
- Be more than a 15-mile drive from another hospital in an area with mountainous terrain or only secondary roads.

Notably, CAHs designated by their state as a Necessary Provider prior to January 1, 2006, are exempt from these distance requirements.

Definition of Primary Roads

We welcome the proposal to clarify the definition of a primary road (as it applies to a CAH that is not classified as a Necessary Provider) as a numbered Federal highway, including interstates, intrastates, expressways or any other numbered Federal highway, or a numbered state highway with two or more lanes each way. We urge CMS to exclude numbered Federal highways with only one lane in each direction from its definition of primary roads. We ask CMS to reiterate in the final rule that distance requirements do not apply to Necessary Provider CAHs.

Review Procedure

The proposed review process expands the area under review from 35 miles by primary roads or 15 miles by mountainous terrain to CAHs within a 50-mile radius of another hospital or CAH, potentially subjecting more CAHs to the review process. Rather than providing greater consistency in its process of evaluating if CAHs meet the statutory location requirements, the proposed rule diminishes the statutory requirements. CMS states that its proposal establishes "a centralized, data-driven preview procedure that focuses on hospitals being certified in proximity to a CAH, *rather than focusing specifically on road classification*." (italics added) The statute, however, focuses on road classification, requiring that a CAH be

> ''(I) located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital, or another facility described in this subsection; or
>
> (II) certified by the State as being a necessary provider of health care services to residents in the area"

We urge CMS to withdraw this proposed provision that contravenes the statute and potentially jeopardizes the compliance of currently Medicare-certified CAHs.

CAHs meet critical needs in our communities, and we have worked tirelessly throughout the COVID-19 pandemic to keep our doors open, to keep our staff employed and to provide the best care possible for our friends, families, and neighbors. We do all this knowing that our certification is always at risk through no fault or action of our own; if a new road is constructed that reduces the mileage between a CAH and another hospital or if another hospital chooses to move closer to us, we are at risk. In our view, this proposed review process only increases that risk. If CMS does not withdraw this proposed revision, CMS should exempt existing CAHs. Furthermore, CMS should be explicit in any rulemaking that Necessary Provider CAHs are not subject to the location limits.

We thank you for the opportunity to comment.

Sincerely,

Bristol Bay Area Health Corporation/Kanakanak Hospital, Alaska

Candler County Hospital, Georgia

Claiborne County Medical Center, Mississippi

Cook Hospital & Care Center, Minnesota

Copiah County Medical Center, Mississippi

Covington County Hospital, Mississippi

Crockett Medical Center, Texas

Grant Memorial Hospital, Washington

Haxtun Hospital District, Colorado

Hills & Dales General Hospital, Michigan

Hocking Valley Community Hospital, Ohio

Holy Cross Medical Center, New Mexico

Howard County Medical Center, Nebraska

Howard Memorial Hospital, Arkansas

Jefferson Davis Community Hospital, Mississippi

Kearney County Health Services, Nebraska

Lafayette Regional Health Center, Missouri

Lockney General Hospital District d/b/a W.J. Mangold Memorial Hospital, Texas

Macon Community Hospital, Tennessee

Magee General Hospital, Mississippi

Magruder Hospital, Ohio

Marshall Medical Center, Tennessee

North Sunflower Medical Center, Mississippi

Odessa Memorial Healthcare Center, Washington

Perry County General Hospital, Mississippi

Phillips County Health System, Kansas

Potomac Valley Hospital, West Virginia

Pullman Regional Hospital, Washington

Riverside Medical Center, Louisiana

Riverview Healthcare Association, Minnesota

Roosevelt Medical Center, Montana

Samaritan Lebanon Community Hospital, Oregon

Samaritan North Lincoln Hospital, Oregon

Samaritan Pacific Communities Hospital, Oregon

Scott County Community Hospital Inc., dba Big South Fork Medical Center, Tennessee

Sedgwick County Memorial Hospital, Colorado

Simpson General Hospital, Mississippi

St. Joseph's Hospital, Washington

Syringa Hospital & Clinics, Indiana

Tomah Health, Wisconsin

Tri-State Memorial Hospital, Washington

Walthall General Hospital, Mississippi

Wichita County Health Center, Kansas