

United States Senate

WASHINGTON, DC 20510

May 14, 2024

The Honorable Tammy Baldwin
Chair, Subcommittee on Labor,
Health and Human Services, Education,
and Related Agencies
United States Senate
Washington, D.C. 20510

The Honorable Shelley Moore Capito
Ranking Member, Subcommittee on Labor,
Health and Human Services, Education,
and Related Agencies
United States Senate
Washington, D.C. 20510

Dear Chair Baldwin and Ranking Member Capito:

As you prepare the Labor, Health and Human Services, and Education Appropriations Act for fiscal year 2025 (FY25), we write to request your support for language to address an important issue affecting Medicare funding for allied health worker training programs such as pharmacy residency and clinical pastoral education programs operated by hospitals.

As you are aware, allied health professional residency programs help to train the next generation of pharmacists, nurses, clinical pastoral counselors and chaplains, occupational, speech, and physical therapists, medical laboratory scientists, and other integral members of patient care teams and the health care system. These education programs not only allow the professional development of pharmacists, therapists, chaplains, and other allied health professionals, but also enhance patient satisfaction, care outcomes, and safety by ensuring a well-trained diverse workforce.

However, we have learned that the Centers for Medicare & Medicaid Services (CMS) has clawed back Medicare pass-through funds to hospitals for the operation of pharmacy residency and clinical pastoral education programs, and we are concerned about the impact this practice has on patients and our nation's health care workforce. The core problem stems from CMS's strict interpretation of regulatory compliance standards for residency and education programs, without adequately communicating these standards to approved allied health professional programs, including pharmacy residencies. Consequently, these programs find themselves navigating a maze of compliance requirements with little guidance, leaving them vulnerable to substantial financial penalties.

To address this issue, we ask for the inclusion of the following bill language in the forthcoming Labor, Health and Human Services, and Education Appropriations Act for FY25:

Sec. ____. None of the funds appropriated by this act may be used by the Department of Health and Human Services to claw back Medicare passthrough payments for approved nursing and allied health education training, pharmacy residency, or clinical pastoral education programs until final guidance is issued providing compliance assistance to nursing, pharmacy, clinical pastoral education, or other allied health education or residency programs, including

guidance to hospital program operators that are part of larger health systems, about how programs can utilize shared services that improve efficiency of operation and/or education experience (i.e., payroll, common educational materials) while still demonstrating programmatic control.

Furthermore, we recommend the inclusion of the following report language expressing the Committee's concerns about the clawbacks and urging the Department of Health and Human Services to provide clear compliance guidance to allied health worker training programs:

Approved Nursing and Allied Health Education or Training Program Compliance.—The Committee considers Medicare Administrative Contractors' (MACs) clawback of Medicare passthrough funds to hospitals for the operation of pharmacy residency, clinical pastoral education, or other approved nursing and allied health education programs that train tomorrow's pharmacists, clinical pastoral counselors, nurses, and other health professionals to be inconsistent and problematic. By law Medicare reimburses hospitals for the expenditures of approved nursing and allied health education programs, such as pharmacy residency or clinical pastoral education programs, that hospitals have direct control over. However, the Department of Health and Human Services (HHS) has not provided compliance guidance of what are indicators of direct control. As a result, MACs have been applying inconsistent standards. Providing compliance guidance will facilitate consistency in enforcement and enable hospitals to comply with the requirements of 42 C.F.R. §413.85. In light of the confusion the current enforcement framework has caused, the Committee strongly urges HHS to issue guidance before allowing clawing back of funds by MACs. Guidance should provide compliance assistance to approved nursing, pharmacy residency, clinical pastoral education, and other allied health education and professional training programs, including guidance to hospital program operators that are part of larger health systems, about how programs can utilize shared services, or affiliations with educational institutions, that improve efficiency of operation or education experience (i.e., payroll services, common educational materials) while still demonstrating programmatic control.

By incorporating this language into the FY25 LHHS appropriations bill and accompanying report, we can help to ensure that hospitals and allied health professional residency programs receive the support and guidance to continue their work without undue financial burdens. Thank you for your attention to this matter, and we look forward to working with you to address the challenges facing our health care workforce.

Sincerely,

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