



Ohio State Medical Association
The power of many. The voice of one.

November 4, 2009

The Honorable Steve Austria
U. S. House of Representatives
1641 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Austria:

On behalf of the 20,000 members of the Ohio State Medical Association (OSMA), including physicians, residents and medical students, I am writing to express our opposition to H.R. 3962, the "Affordable Health Care for America Act," as currently drafted.

This opposition is based on several glaring deficiencies in the current draft of the bill. We feel that without addressing the issues outlined in this letter, this legislation will fail to guarantee patients access to high-quality, cost-effective medical care and will not establish a more efficient and complete health care delivery system in the United States.

As physicians, we understand better than many others that the status quo of the current system is unsustainable. The OSMA is supportive of many of the health system reform goals of this legislation. These goals include access for all Americans to affordable health insurance coverage, the establishment of a health insurance exchange, the elimination of health insurers' ability to deny coverage for pre-existing conditions, investment in prevention and wellness services, funding of patient centered medical homes and other initiatives to expand access to care.

However, the OSMA has become increasingly concerned that, as the debate draws toward a conclusion, this legislation lacks many of the critical elements necessary for successfully reforming America's health care delivery system and strengthening the physician-patient relationship.

It is our sincere hope that the deficiencies outlined in this letter can be addressed and that the OSMA will be able to support a final bill which deals with problems in our health care delivery system not yet addressed in the current legislation.

Medicare Physician Payment Formula

On Jan. 1, 2010, Medicare physician payments are scheduled to be cut by 21.2 percent, with projected cuts of 40 percent or more anticipated in future years. These impending cuts are a result of a Medicare payment formula, known as the Sustainable Growth Rate formula (SGR). The SGR formula reduces physician payments when Medicare spending exceeds SGR spending targets.

Since 2002, the SGR formula would have resulted in payment cuts every year through 2010. Fortunately, Congress intervened each year to prevent the reductions, but in doing so, moved the "cost" of delaying the cuts to future years.

A new Medicare physician payment system is essential for establishing a stable foundation for new payment models and health system reforms. Retaining this flawed and outdated payment formula runs counter to the reforms now being considered by Congress. Initiatives to improve care coordination, promote primary care and encourage wellness and prevention services may ultimately generate system-wide savings by reducing the need for hospitalizations and other costly interventions. However, in the short term, these measures will cause the volume of physician visits and other services to increase. If the SGR remains in place, the activities policymakers want to promote will trigger additional payment cuts.

Further, a stable, predictable physician payment mechanism is critical for broad-based health system reform to occur. Such a mechanism would allow physicians to plan ahead for practice innovations, make investments and make personnel decisions that are fundamental to improved care coordination and chronic disease management. A stable payment system will also help sustain the physician workforce. Policy makers acknowledge the physician workforce will experience severe shortages in the near future, just as the baby boomer generation begins entering the Medicare program.

Any legislation which fails to eliminate the SGR formula, or which proposes another short-term patch that leaves the underlying problem in place, will continue to build upon a faulty foundation and will jeopardize seniors' access to care. Therefore, elimination of the flawed Medicare SGR payment formula must be part of any health system reform initiative.

Medicaid Expansions

The current proposal to increase Medicaid coverage to individuals at or below 150 percent of the Federal Poverty Level (FPL) expands enrollment in an already overburdened and strained program.

In the last year, approximately 154,000 Ohioans were added to the state Medicaid program. This represents an eight percent spike in enrollment and the largest 12-month caseload increase in seven years. Medicaid now insures nearly two million Ohioans and has increased in enrollment for 19 consecutive months.

These unprecedented enrollment increases have happened at a time when the Ohio Medicaid program has failed to adequately reimburse physicians for providing medical services to enrollees. In fact, over the last nine years physicians' reimbursement rates have remained flat while practice expenses have increased by more than 20 percent.

While the current proposal has attempted to address some of our concerns by paying primary care at Medicare rates through 2014, we are greatly concerned

that all medical services are not going to be reimbursed at a higher rate, and even this commitment will not be fulfilled beyond 2014.

Medicaid eligibility expansion is a troubling trend for the physician community as payment for these services often fails to cover the cost of providing the care. Therefore, the OSMA cannot support expanding Medicaid eligibility to almost one million additional Ohioans without improving the outlook for meeting the program's current and future commitments and obligations.

Comprehensive Federal Medical Liability Reforms

The Congressional Budget Office (CBO) recently reported that government health care programs could save roughly \$41 billion over the next ten years by enacting comprehensive federal medical liability reform measures such as placing a limit on non-economic damages in lawsuits.

In Ohio, we enacted more than 20 substantive medical liability reforms, including a cap on non-economic damages, between 2002 and 2005. These reforms have stabilized a medical liability crisis in our state. Since 2006, medical liability premiums have decreased by an average of 22 percent and the number of medical liability lawsuits has been reduced by 34 percent from 2005 to 2007.

While Ohio's tort reform laws have helped bring down premium costs and stabilized the practice of medicine in the state, medical liability insurance remains a major expense. Despite the success of tort reform at the state level, physicians fear that such state measures can be overturned at any time. Therefore, the fear of being sued continues to contribute to the practice of defensive medicine by physicians. As the CBO report states, the "current medical liability system encourages providers to increase the volume or intensity of the health care services they provide to protect themselves against possible lawsuits."

The President's medical liability pilot programs and the incentive payments for medical liability alternatives in this proposal do not go far enough to ease the practice of defensive medicine or reach the ultimate cost savings contained in the CBO report. We believe that comprehensive federal medical liability reforms, similar to those enacted in Ohio, will reduce costs and should be part of any health system reform legislation.

Physician-Owned Hospitals

The current draft of the legislation would eliminate the whole hospital exception to the Stark self-referral law. This will prohibit physician-owned hospitals from growing, force physician-owned facilities currently under construction to be abandoned, and uniformly deter the establishment of new physician-owned facilities by prohibiting them from treating Medicare and Medicaid patients. These proposed changes and restrictions would have a detrimental impact on Ohio physician-owned hospitals. It would put the existing facilities at a competitive disadvantage and effectively make it impossible for new facilities to open, leading to the end of this hospital sector.

In Ohio, physician-owned hospitals have achieved the highest quality scores in some markets. These physician-owned facilities have also been shown to provide more net community benefits through uncompensated care and taxes than not-for-profit competitors as a share of total revenues. Limiting the viability of physician-owned hospitals will reduce access to high-quality, cost-effective health care, stifle new and innovative ideas for delivering medical care and have a destructive effect on the economy in communities these hospitals serve. Therefore, these restrictive provisions should be removed from the legislation.

Other Concerns

This legislation continues to propose severe cuts for imaging services. These cuts will have a negative impact on physicians' utilization of advanced diagnostic imaging procedures to treat their patients and will impede patients' access to advanced medical care. The OSMA asks you to please remove the proposed cuts.

Finally, this legislation fails to incorporate adequate measures to improve consumer responsibility in controlling one's own health care costs. We strongly urge the House to consider enacting public policy initiatives which engage patients in being financially and personally responsible for health-related behaviors and conditions within their control.

Conclusion

In conclusion, the OSMA cannot support this legislation as currently drafted. We believe that without addressing the aforementioned issues in the current health system reform proposal, it is not possible to guarantee all Americans access to affordable health insurance coverage while establishing a more effective health care delivery system. We look forward to continuing to work with you on the issues outlined above and hope we can build consensus around these ideas for inclusion in a final health system reform package.

Sincerely,

A handwritten signature in black ink that reads "Roy H. Thomas, MD". The signature is written in a cursive, flowing style.

Roy H. Thomas, MD
President



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The Honorable John A. Boehner
U. S. House of Representatives
1516 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Boehner:

On behalf of the 20,000 physician, resident and medical student members of the Ohio State Medical Association, I am writing to urge you and the House Republican Caucus to propose or support a permanent fix to the fatally flawed Medicare Sustainable Growth Rate (SGR) physician payment formula.

As you know, on Jan. 1, 2010, Medicare physician payments are scheduled to be cut by 21.2 percent, with projected cuts of 40 percent or more anticipated in future years due to the SGR.

Since 2002, the SGR formula would have resulted in payment cuts every year through 2010. Fortunately, Congress intervened each year to prevent the reductions, but in doing so, moved the "cost" of delaying the cuts to future years. Failures of previous Congresses, including Republican Majorities in the House and Senate, to address this flawed formula have increased the existing paper debt to more than 240 billion dollars.

I have recently read your comments that were critical of the House Democrats decision to remove the Medicare SGR solution ("doc fix") from HR 3962, the "Affordable Health Care for America Act". In addition, I have reviewed your proposed omnibus amendment released yesterday to HR 3962 and noted that it too fails to propose a permanent solution to the flawed Medicare SGR funding formula.

The OSMA strongly believes that a permanent repeal of the flawed payment formula is an essential element of comprehensive health system reform. A secure and stable health care delivery system for America's seniors cannot be sustained without a permanent solution to the broken Medicare physician payment formula.

We urge you to provide leadership in building a bi-partisan consensus for a permanent fix to the Medicare physician payment formula. While we are disappointed HR 3962 no longer contains a permanent fix to the Medicare SGR formula, we are encouraged by the introduction of HR 3961, the "Medicare Physician Payment Reform Act." HR 3961 is the only pending legislative solution and, as such, we urge you and your Caucus to support the measure.

Sincerely,

Roy H. Thomas, MD
President

cc: Ohio Congressional Delegation