

Congress of the United States
Washington, DC 20515

June 23, 2017

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244

Dear Administrator Verma:

We are writing regarding an issue that threatens the financial stability of several hospitals in our District and across New York State.

National Government Services (NGS), the Medicare Administrative Contractor (MAC) for New York, is recouping millions of dollars from New York Sole Community Hospitals (SCHs) and Medicare Dependent Hospitals (MDHs) based on a recalculation of prior year Volume Decrease Adjustments (VDAs), while other hospitals were denied VDA funds entirely. The retroactive recalculations and denials affect at least 16 New York SCHs and MDHs with repayments that could total \$15 to 20 million.

As you know, the VDA is provided to SCHs and MDHs that experience a significant volume decrease due to circumstances beyond their control and is intended to cover some of the costs needed to maintain the core staff and services necessary for continued operation of the hospital. These rural community hospitals are financially vulnerable and the VDA is critical to ensure continued operations.

In good faith, these New York hospitals applied to NGS for the VDA; were determined to meet all requirements to qualify for an adjustment; and in many cases, were awarded funds based on the VDA calculation applied by NGS. Subsequently, NGS announced they were re-reviewing all VDA calculations made since 2013 based on new instructions from the Centers for Medicare and Medicaid Services (CMS). Years after the hospitals experienced the volume decrease, they are now required to repay a substantial portion of the funds that were granted as relief or are completely denied access to VDA funds. This imposes a devastating financial burden on providers that are already suffering from continuing declining patient volumes and the resulting payment decreases. The denials and retroactive recoupment of vitally needed funds could threaten their ability to provide necessary services to isolated rural populations, endangering access for Medicare beneficiaries in our districts. That is why the hospitals are actively appealing these recoupment decisions.

Below is a list of 16 New York hospitals in our districts that we are aware have experienced demands for repayment, denials, or other inquiries about their VDA calculations. It is our understanding that additional hospitals may be at risk as NGS has not yet recalculated all VDAs

from the affected time period and other hospitals may qualify for adjustments if the new calculation is applied retroactively.

- Adirondack Medical Center
- Auburn Community Hospital
- Aurelia Osborn Fox Memorial Hospital
- Carthage Area Hospital
- Claxton-Hepburn Medical Center
- Cortland Regional Medical Center
- Gouverneur Hospital
- Jones Memorial Hospital
- Lewis County General Hospital
- Massena Memorial Hospital
- Nathan Littauer Hospital
- Oswego Health
- Rome Memorial Hospital
- The University of Vermont Health Network-Champlain Valley Physicians Hospital
- UHS Chenango Memorial Hospital
- Wyoming County Community Health System

Recently, CMS issued an Inpatient Prospective Payment System proposed rule which includes significant modifications to the current VDA calculation. As you know, the new calculation under the proposed policy would be effective for periods on or after October 1, 2017, but would not change the methodology used for calculation of VDAs for any prior periods. As a result, the substantial repayments demanded from the New York hospitals would continue unchanged even though use of the new VDA calculation would greatly mitigate the recoupment amounts. In addition, other adverse VDA determinations would remain in place when use of the new calculation would result in favorable VDA determinations and access to the payment adjustment.

While we welcome the improvements in the proposed rule and would encourage CMS to adopt those technical changes, we are also concerned that the changes would not apply to prior VDA decisions or to outstanding hospital appeals. Therefore, we urge CMS to modify the proposed policy and provide for retroactive application of these calculation changes in a way that preserves hospital choice where needed.

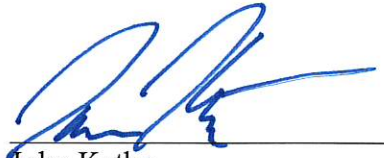
We also request that CMS instruct NGS to recalculate the previously issued recoupment demands to align with its newly proposed calculation standard. CMS should also instruct NGS to re-review and reissue past VDA determinations for open cost reports based on the retroactive application of the newly proposed calculation standard, regardless of whether the hospital appealed the VDA determination. Additionally, CMS should allow hospitals with open cost reports that have been unable to apply for VDA requests under the current methodology to submit VDA requests under the newly proposed calculation standard.

Thank you for your cooperation in this matter.

Sincerely,



Elise M. Stefanik
Member of Congress



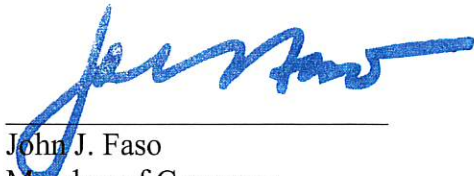
John Katko
Member of Congress



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