UnityPoint Health

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August 29, 2022

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

RE: CMS–3419-P - Medicare and Medicaid Programs; Conditions of Participation (CoPs) for Rural Emergency Hospitals (REH) and Critical Access Hospital CoP Updates; published at Vol. 87, No. 128 Federal Register 40350-40404 on July 6, 2022.

Submitted electronically via http://www.regulations.gov

Dear Administrator Brooks-LaSure,

UnityPoint Health appreciates this opportunity to provide comments on this proposed rule related to Conditions of Participation (CoPs) for Rural Emergency Hospitals (REH) and Critical Access Hospital CoP Updates. UnityPoint Health is one of the nation's most integrated health care systems. Through more than 32,000 employees and our relationships with more than 480 physician clinics, 40 hospitals in urban and rural communities and 14 home health agencies throughout our 9 regions, UnityPoint Health provides care throughout Iowa, central Illinois, and southern Wisconsin. On an annual basis, UnityPoint Health hospitals, clinics and home health provide a full range of coordinated care to patients and families through more than 8.4 million patient visits.

Rural health care and access to services within our rural communities is important to UnityPoint Health. Within the UnityPoint Health system footprint, there are 3 tweener hospitals and 20 critical access hospitals.

UnityPoint Health appreciates the time and effort of CMS in developing this proposed rule. **UnityPoint Health is a member of the American Hospital Association and the Iowa Hospital Association and generally supports their formal comment letters to this proposed rule.** UnityPoint Health respectfully offers the comments below and intends to submit additional comments to the REH payment and enrollment provisions within the CY2023 Outpatient Prospective Payment System proposed rule:

RURAL EMERGENCY HOSPITAL (REH) CONDITIONS OF PARTICIPATION

CMS is proposing conditions of participation (CoP) related to the statutory creation of a Rural Emergency Hospital as a Medicare provider type. As a new provider type, CMS has modeled REH CoPs based primarily on Critical Access Hospitals; however, there are instances in which REH CoPs more closely align to Acute Care Hospital CoPs or Ambulatory Surgical Center conditions of coverage. As proposed, REHs would provide emergency, laboratory, radiology/imaging, and pharmacy services. Optional services left to community need and discretion include outpatient services, low-risk labor and delivery, behavioral health / substance use disorder, surgical services, and outpatient rehabilitation. Hospital swing beds may be converted to REH distinct part skilled nursing units.

Comment: UnityPoint Health supports access to health care in rural communities and the creation of this new Medicare provider type. In general, we envision that a REH will retain standing in rural communities as the hub of health care services, despite the lack of inpatient services. We completely support deference to the community related to what services meet local need – meaning that if you have seen one REH, you have seen one REH. We appreciate CMS efforts to model CoPs on existing standards for CAHs, acute care hospitals, or ambulatory surgery centers when feasible. This will streamline conversion efforts.

- Inclusion of Transport as a Mandatory Service: As REHs are charged with a focus on emergency treatment, the availability of timely Emergency Medical Services (EMS) is crucial. EMS is not only vital to getting patients to the REH timely but is necessary for timely transfers. Due to large geographic service areas and low population density, Rural EMS providers often travel longer distances per run. The availability of rural EMS is often scarce and patchwork funding does not encourage stability in service providers. To assure access to EMS, **UnityPoint Health urges EMS to be included within the list of mandated services that receive enhanced reimbursement**.

- Transfer Agreement Clarification: **UnityPoint Health encourages operational flexibility and deference to medical judgment for situations involving patient transfers**. CMS proposes that a REH must have a transfer agreement with at least one Medicare-certified hospital that is a level I or level II trauma center. CMS also proposes to "require that REHs have established relationships with hospitals that have the resources and capacity available to deliver care that is beyond the scope of care delivered at the REH." We agree with both proposals and applaud CMS for acknowledging that level I or level II trauma center transfer agreements do not preclude other transfer agreements.

- On-Site Provider Presence: CMS is seeking comment on the proposed REH staffing requirements and the potential to mandate practitioners to be on-site. **UnityPoint Health encourages CMS to allow states to manage staffing requirements** as states have the most intimate knowledge of their provider base and community need.

- Average Length of Stay: While we understand the requirement for average length of stay not to exceed 24 hours, this timeframe could be challenged by the inclusion of labor and delivery and behavioral health service lines. **UnityPoint Health is aligned with the American Hospital**

Association and the Iowa Hospital Association comments and encourages CMS to consider exceptions for these services. To further enable REHs to address behavioral health patients, CMS may consider authorizing psychiatric distinct part units like those for skilled nursing.

- Information Collection Requirements Burden: When a hospital elects to convert to an REH and forego the provision of inpatient services, ICRs appear to mirror CAH or acute care hospital policy development and reporting requirements. CMS estimates 278.5 burden hours for select CoPs, which we believe grossly underestimates administrative burden. This estimate exclude CoPs costs that are associated "in the course of doing every day business" (i.e. medical records, emergency preparedness communications plan, etc.) and does not sufficiently include optional outpatient services. **We urge CMS to be thoughtful as it adds REH CoPs that invoke administrative functions requiring manual chart extractions or information collection outside an automated claims data process.**

CRITICAL ACCESS HOSPITAL (CAH) CONDITIONS OF PARTICIPATION

Under Critical Access Hospital CoPs, CMS is proposing to (1) add the definition of "primary roads," (2) include patient's rights requirements, and (3) allow CAHs in multi-facility systems to have flexibilities related to staffing, an infection prevention and control and antibiotic stewardship program, and a quality assessment and performance improvement (QAPI) program.

Comment: In the state of Iowa, all CAHs are facilities with a long-standing presence in their communities and have been "certified before January 1, 2006, by the State as being a necessary provider of health care services to residents in the area." As a necessary provider, CAHs in Iowa are exempt from the distance requirement. **UnityPoint Health supports the continuation of the necessary provider certification and its exemption from the CAH distance requirements.**

As UnityPoint Health evaluated the potential conversion from CAH to REH designation for our rural communities, it became obvious that further administrative and even staffing efficiencies from conversion are basically nonexistent. Despite discontinuing inpatient services, many of the reporting and back-office responsibilities would remain unchanged as proposed under a REH structure. We urge CMS to continue to be thoughtful as it adds CAH CoPs which mandate administrative functions. In this vein, **we applaud CMS for allowing administrative flexibilities for CAHs within multi-facility systems and under a common governance structure.** This is a flexibility currently enjoyed by acute care hospitals and recognizes efficiencies through economies of scale in these areas.

RURAL EMERGENCY HOSPITAL – GENERAL COMMENTS

Congress enacted the Rural Emergency Hospital designation in the Consolidated Appropriations Act (CAA) of 2021 (Pub. L. 116–260), which was signed into law on December 27, 2020.

Comment: UnityPoint Health appreciates the efforts of Congress to recognize this new rural hospital designation. This designation preserves essential health care services in rural communities as an alternative to shuttering facilities and requiring rural residents to travel further for emergency and

outpatient services. This decision to right size health care in rural communities is retained at the local level. We are disappointed that CMS has taken more than 18 months to release these proposed CoPs and even longer to release the REH payment structure within the CY 2023 Outpatient Prospective Payment System proposed rule. This delay has not afforded interested hospitals and communities sufficient time to evaluate conversion and hold crucial community conversations, nor has it facilitated a robust adoption of enacting legislation at the state level. **UnityPoint Health urges CMS to place REH within the established annual proposed rule making process** so that stakeholders can have assurances of rulemaking timing and the commitment of CMS to entertain future rule refinement.

We are pleased to provide input on this proposed rule and its impact on our patients and communities. As previously mentioned, UnityPoint Health intends to submit additional comments to the REH payment and enrollment provisions within the CY2023 Outpatient Prospective Payment System proposed rule. Topics to be addressed in that comment letter will include payment rates, the Medicare enrollment process, quality reporting, and participation by REHs within the 340B Drug Price Program and as provider-based rural health clinics. To discuss our comments or for additional information on any of the addressed topics, please contact Cathy Simmons, Government & External Affairs at Cathy.Simmons@unitypoint.org or 319-361-2336.

Sincerely,

Cathy Simmons, JD, MPP
Executive Director, Government & External Affairs
UnityPoint Health