February 19, 2016

The Honorable Fred Upton, Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

The Honorable Joseph Pitts, Chairman
Subcommittee on Health
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115


Dear Honorable Chairman Upton:

UnityPoint Health (“UPH”) appreciates this opportunity to provide feedback on the enactment of Section 603 of the Bipartisan Budget Act of 2015. UPH is one of the nation’s most integrated healthcare systems. Through more than 30,000 employees and our relationships with more than 280 physician clinics, 32 hospitals in metropolitan and rural communities and home care services throughout our 9 regions, UPH provides care throughout Iowa, Illinois and Wisconsin. On an annual basis, UPH hospitals, clinics and home health provide a full range of coordinated care to patients and families through more than 4.5 million patient visits.

Section 603 of the Bipartisan Budget Act of 2015 significantly changes the reimbursement structure for provider-based off-campus hospital outpatient departments (HOPDs). While existing HOPDS are eligible for reimbursement under the CMS Outpatient Prospective Payment System (OP PPS), new HOPDs would be eligible for reimbursements from with the Ambulatory Surgical Center PPS or the Medicare Physician Fee Schedule. Existing HOPDs were defined as HOPDs billing under the OP PPS prior to the enactment date of this law. We respectfully request that the law be amended to permit grandfather status to HOPDs under construction prior to the enactment of this law. We also request clarity to assure that the relocation of grandfathered facilities is permissible.

**HOPDs under Construction**: Long before the enactment of Section 603, UPH had engaged in extensive planning, obtained regulatory approval, and broke ground on a facility to include provider-based, off-campus HOPDs in Ankeny, Iowa. This facility site is located 14.51 miles from UnityPoint Health - Iowa Lutheran Hospital (Lutheran) in Des Moines, Iowa. Among the tenants within this new facility are Surgery, Pharmacy and Laboratory HOPDs. The Surgery HOPD is just over 13,000 square feet, is projected to have an initial caseload of 1,500 patients, and is targeting minor orthopedic procedures, such as knee
arthroscopy, ACL repairs, and shoulder and rotator cuff repairs. By shifting this surgical caseload from Lutheran’s main campus, it will decrease patient wait time for elective surgeries at the main campus and off-site facilities as well as offer a more convenient location for patients residing in the high growth region of northwest Polk county and surrounding areas.

UPH has made substantial investments of time and resources to the Ankeny project. Our project and the start of construction predated the abrupt Congressional revision to the CMS HOPD reimbursement structure. In particular:

- **2003**: Iowa Lutheran Hospital purchased the land subject of this construction project for future expansion efforts in the city of Ankeny.
- **June 2014**: Business plan submitted to the UPH Finance Committee.
- **October 27, 2014**: The Iowa Department of Public Health authorized the extension of Iowa Lutheran Hospital's outpatient surgery services to a freestanding location in Ankeny.
- **October 13, 2015**: Construction began (i.e. date of ground breaking) on UnityPoint Health Ankeny Medical Park facility.
- **October 2016**: Projected opening of Pharmacy and Laboratory HOPDs at Ankeny facility.
- **January 2017**: Projected opening of Surgery HOPD at Ankeny facility.

To differentiate treatment for facilities under construction like ours, Congress disregards our ongoing deliberate and thoughtful planning, approval and construction progress required to operationalize a HOPD. In effect, Congress has pulled the rug out from under our project and has inserted an air of uncertainty into future expansion projections by treating projects under construction as nonexistent. Also of note, the relative speed through which this statutory change was enacted did not permit UPH to effectively discuss our situation with our Congressional representatives. In addition, the omission of grandfather language to recognize facilities under construction was unexpected and not consistent with past precedent. Historically, Congress has protected both existing facilities and those under construction when it passes moratoriums on new facilities, including recent legislation changing Medicare payment for physician-owned hospitals and long-term care hospitals (LTCH). Similar treatment for facilities billing for services and facilities under construction appreciates the significant development and decision-making process underlying the establishment a HOPD.

**Relocation of Grandfathered Facilities**: We are in agreement with the interpretation forwarded by the American Hospital Association in its response letter to this Committee dated February 12, 2016. Specifically, that Section 603 as written, changes in ownership of a facility, or the addition of services, do not impact the grandfathered status of a HOPD and as such that grandfathered HOPDs may relocate upon meeting Department of Health and Human Services criteria. If this is not the interpretation of this Committee, we encourage the adoption of a technical amendment to address this situation. Over the past 30 years, UPH has relocated and even combined HOPD locations based on a number of factors, such as patient caseloads, geographic needs, and financial efficiency (rent affordability). This continued relocation flexibility is required for UPH to meet patient needs and efficiently provide services in the future.

We urge the Committee to clarify the definition of off-campus provider-based HOPDs to exclude facilities already under construction when the Bipartisan Budget Act was signed into law to recognize prior and ongoing commitments and investments in these new facilities. Consistent with our interpretation of relocated grandfathered facilities, we would request that the law affirmatively state this position. To
discuss our comments or for additional information on any of the addressed topics, please contact Sabra Rosener, Vice President and Government Relations Officer, Public Policy and Government Payors at sabra.rosener@unitypoint.org or 515-205-1206.

Sincerely,


Sabra Rosener  
Vice President / Government Relations Officer  
UnityPoint Health

Joe Corfits  
Chief Financial Officer  
UnityPoint Health – Des Moines

1776 West Lakes Parkway, Suite 400  
West Des Moines, IA 50266

Sabra.Rosener@unitypoint.org  

1200 Pleasant St.  
Des Moines, IA 50309

Joseph.Corfits@unitypoint.org