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Congress of the United States
House of Representatives
Washington, DC 20515-3101

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Dr. Paul R. Duncan M.D.
New Mexico Society of Clinical Oncology
7770 Jefferson Street Northeast, Suite 400
Albuquerque, New Mexico 87109

Dear Dr. Duncan,

Thank you for your letter about Medicare reimbursement of oncology drugs. Like you, I continue to be concerned about the Medicare changes to reimbursement for oncology drugs and their effect on the ability of cancer patients to have access to community cancer services. I really appreciate the time you make to keep me updated on what you and others are seeing in your practice.

House Resolution 261, which I cosponsored, passed the House of Representatives on October 6, 2005. This resolution expressed the sense of the House that CMS should extend the Medicare Quality Cancer Care Demonstration Project through 2006. In response, CMS announced on November 2, 2005, that it will be extending the demonstration project for one year, but it will be significantly reconfigured to help CMS gather more useful data. The revised demonstration will emphasize evidence-based practice guidelines and will focus on treatment provided to beneficiaries for any of 13 cancers listed as a primary diagnosis. This demonstration, which will be conducted throughout calendar year 2006, will use the CMS billing system to generate information on coordination of care, treatment design, and patient monitoring. The payment for participating in the demonstration will be \$23 in 2006 for each episode of care.

The Community Cancer Care Preservation Act of 2005, H.R. 4098, would ensure that payments to physicians for drugs under the ASP+6% methodology do not exceed or fall short of the actual average sales price during any preceding quarter. This would provide a mechanism for retrospective Medicare payment for drugs to match the actual sales price, helping alleviate a situation where Medicare payments for some drugs are below the price at which physicians can purchase them due to the lag time caused by quarterly reporting. H.R. 4098 would also establish an additional drug administration payment of 2% of the drug reimbursement to compensate physicians for overhead and related administrative costs. Additionally, H.R. 4098 would extend the original Medicare Quality Cancer Care Demonstration Project for one year, direct CMS to establish additional quality measures for cancer care provided in the physician office setting, require the National Cancer Institute to develop a plan to increase participation in clinical trials, and require the Congressional Budget Office to submit a report to Congress on the impact on

oncologists of the changes in drug reimbursement mandated in the Medicare Modernization Act. I will keep your thoughts in mind if this legislation comes up for a vote. While I supported extending the demonstration project temporarily, I want to take a look at the data and options before we change the ASP+6% system.

Concerning the HHS Office of Inspector General report you referred to in your letter, they found that while the ASP+6% methodology was insufficient to cover drug acquisition costs for a few drugs, Medicare payment exceeded the average drug acquisition cost for 35 of the 39 most common cancer drugs. In the aggregate, the report found Medicare payments were sufficient to cover drug acquisition costs. But it sounds like that isn't what you are seeing in your practice. Which raises the question of why the difference? If you have any insight on that, I would like to know. The 6% add-on to ASP was intended to compensate physicians for variations between physician offices' ability to purchase drugs due to their varying location and size.

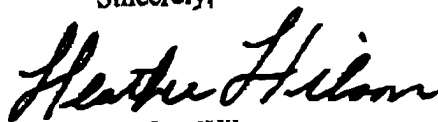
Preliminary 2005 CMS data for the top physician administered drugs suggests that overall utilization of these drugs appears to have increased compared with 2004 levels. This would indicate that physicians have continued to make cancer drugs available to their Medicare patients. CMS estimates that total Medicare reimbursement to oncologists will increase 8.1% in 2006, reflecting an expected increase both in the volume of drugs and in the reimbursement rates for drugs, in addition to the enhanced practice expense payments for drug administration in the physician fee schedule provided in the Medicare Modernization Act.

Congress is also considering legislative fixes to the sustainable growth rate formula in the Medicare physician fee schedule to prevent an expected 4.4% negative update in 2006. I am a cosponsor of legislation, H.R. 2356, that would provide a 2.7% update in 2006 and implement a new update formula in future years to replace the flawed sustainable growth rate formula. If we are not able to enact this legislation before the end of the year, I would support another temporary fix for next year.

I will continue to monitor this data to ensure that access to cancer drugs is not inhibited by government payment policies. If your practice experiences dramatic changes in its ability to purchase oncology drugs at Medicare reimbursement rates such that patient access to cancer therapeutics is threatened, please let me know.

Again, thank you for contacting me. Please continue to contact me about issues that are important to you. While I commute from my home in Albuquerque to Washington D.C., for voting and committee hearings, you can always check my web site for upcoming community events to find where you can catch me around town.

Sincerely,



Heather Wilson
Member of Congress