



June 13, 2016

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232 The Capitol
Washington, D.C. 20515

Dear Speaker Ryan:

The National Business Group on Health (Business Group) writes with continuing concerns regarding recently-passed House legislation ([H.R.5273](#)) that would exempt mid-build off-campus hospital outpatient departments (HOPD) from the site-neutral payment requirement in Section 603 of the Bipartisan Budget Act of 2015. Exempting mid-build off-campus HOPDs from this requirement would discourage competition; unnecessarily increase health expenditures for retirees and other Medicare beneficiaries, employees, employers, and other purchasers of care; and weaken incentives to provide services at the lowest-cost site of care that is appropriate. We look forward to working with you and Senate leaders as this is further considered to mitigate adverse impacts on beneficiaries and other patients as well as Medicare and other public and private payers.

The National Business Group on Health represents approximately 425, primarily large, employers (including 70 of the Fortune 100) who voluntarily provide generous health benefits and other health programs to over 55 million American employees, retirees, and their families.

Expanding exceptions to the mandate for site-neutral payments will likely exacerbate the size of extra, unnecessary charges to the Medicare program, retirees, employers, employees and other purchasers of care for non-intensive and nonemergency services provided in off-campus HOPDs vs. physicians' offices. For example:

- [A 2013 Medpac report](#) found that Medicare paid \$188 to a freestanding physician for a level II EKG. In a HOPD setting, the total was \$453.
- According to a CVS Caremark 2013 study of internal data, the price for administering Remicade (a specialty drug used to treat rheumatoid arthritis, ulcerative colitis and other diseases) was \$2,885 more expensive in a HOPD vs. a physician's office.

Employers are increasingly providing transparency tools to employees, covered family members and covered retirees to help them shop for better care at lower cost, and building incentives in their plan designs to do the same, but their efforts alone are not enough to combat higher prices for the same services provided at different settings. Aligning Medicare with these efforts will not only save Medicare beneficiaries on Part B premiums and out-of-pocket expenses, it will mutually reinforce private sector efforts such as those by employers to drive toward more effective, efficient delivery of health care services.

If Congress were to modify Section 603 of the BBA, the Business Group would encourage the following policy recommendations:

- Consider eliminating the provision to grandfather existing arrangements and the extension to mid-build arrangements.

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- Minimally, we would encourage a scheduled phase out of the extension over a reasonable time period for both grandfathered existing arrangements and those in mid-build at the time of enactment.

Allowing existing and mid-build arrangements to be grandfathered, particularly if it is permanent 1) raises questions of fairness, 2) could provide a regulatory protection from competition for the grandfathered entities and 3) could inhibit the growth of lower cost alternatives in the affected areas.

Following our letter to the [Committee on Energy and Commerce](#), we strongly recommend that Congress does not act to weaken Section 603 of the Bipartisan Budget Act of 2015.

Please contact me or Steven Wojcik, the National Business Group on Health's Vice President of Public Policy, at (202) 558-3012, if you would like to discuss our comments in more detail.

Sincerely,



Brian J. Marcotte
President and CEO

cc: The Honorable Mitch McConnell, Majority Leader, U.S. Senate
The Honorable Patrick J. Tiberi, Chairman, U.S. House of Representatives Committee on Ways and Means, Subcommittee on Health
The Honorable Jim McDermott, Ranking Member, U.S. House of Representatives Committee on Ways and Means, Subcommittee on Health
The Honorable Lamar Alexander, Chairman, U.S. Senate Committee on Health, Education Labor and Pensions
The Honorable Patty Murray, Ranking Member, U.S. Senate Committee on Health, Education Labor and Pensions
The Honorable Orrin Hatch, Chairman, U.S. Senate Committee on Finance
The Honorable Ron Wyden, Ranking Member, U.S. Senate Committee on Finance