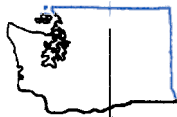


MARIA CANTWELL  
WASHINGTON



# United States Senate

WASHINGTON, DC 20510-4705

October 4, 2004

Dr. Mark McClellan, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
P.O. Box 8013  
Baltimore, MD 21244-8013

Dear Dr. McClellan:

When the Congress passed the Medicare Modernization Act (MMA) in November, I raised concerns about adjustments being made to cancer care reimbursement rates that were contemplated, and ultimately enacted, by the legislation. I remain concerned about ongoing and impending cuts to cancer care -- concerns that are being borne out by providers in my home state of Washington as well as by initial Centers for Medicare and Medicaid Services (CMS) data on reimbursement rates based on an average sales price (ASP) formula.

Clinics in Washington state are reporting that, based on the proposed rules released by CMS to implement the MMA, they will no longer be able to provide outpatient chemotherapy services for Medicare beneficiaries. For example, administrators at Columbia Basin Hematology and Oncology in Kennewick, Washington have determined that using the ASP methodology to determine reimbursements will result in payment amounts for many drugs that are lower than the prices at which physicians can purchase them. Furthermore, these same administrators recognize that as the ASP formula goes into effect in 2005 that the MMA's transitional adjustment payment for drug administration services, which is 32 percent this year, will also disappear.

The net profit margin for chemotherapy services at Columbia Basin Hematology and Oncology is projected to fall precipitously from 13.38 percent in 2004 to 0.89 percent in 2005. Payments for drug administration services will also decrease in 2005 by an estimated \$250,000; and if that is the case, Columbia Basin has made clear that they may need to reconsider its participation in the Medicare program. What is happening at Columbia Basin is indicative of what is going on at other clinics throughout Washington state, such as Northwest Medical Specialties in Tacoma and Western Washington Oncology in Olympia.

I am particularly apprehensive about the ASP system because, as it has been explained to me, serious flaws still exist within the date of the ASP, which is scheduled to begin January 1, 2005. For example, the manufacturers are reporting the purchase price of wholesalers, and not the cancer clinics that use the drugs. This, in addition to other factors, ultimately could result in a system with cancer clinics purchasing drugs far above ASP.

I have also heard from many in the oncology community that CMS has not yet released the second quarter data for ASP and is requesting that drug manufacturers use a different methodology for calculating ASP in the third quarter. In light of these circumstances, do you think that CMS would consider either postponing implementation of the new ASP system until accurate data can be collected or use both systems for a period of time until ASP proves to accurately reflect true costs?

While I understand that CMS is still making determinations on new payment codes and considering increasing some payments under existing codes, which would largely replace the transition payment in effect for 2004, I hope that the ultimate goal is to ensure that:

- Patients can continue to receive chemotherapy in an outpatient setting;  
Patients receive cost-effective care; and  
Doctors and support staff are reimbursed what it costs to provide both the care for their patients and the chemotherapy drugs.

I look forward to hearing your thoughts on this vitally important issue. It is imperative that we create a reimbursement system for cancer care that gives doctors, caregivers, taxpayers, and, most importantly, cancer patients and their families, a fair deal.

Sincerely,

A handwritten signature in black ink, appearing to read "Maria Cantwell". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Maria Cantwell  
United States Senator