



SENTARA®



Bon Secours

**REVISED**

October 30, 2008  
Sent Via Email To:

TO: Carolyn Wise, Legislative Assistant-Congressman Randy Forbes  
Ben Schultz, Military Legislative Assistant-Congresswoman Thelma Drake  
Ryan Kaldahl, Legislative Director-Congressman Randy Forbes

FROM: Lance Torcom, David Boim, John Stone and Charlotte Perkins  
Sentara and Bon Secours Representatives

CC: David Bernd, CEO, Sentara Healthcare                      Peter Bernard, CEO Bon Secours  
Howard Kern, COO, Sentara Healthcare                      Peter Gallagher, CFO Bon Secours  
Robert Broermann, CFO, Sentara Healthcare

RE: Unintended TRICARE Outpatient Prospective Payment System (OPPS) impacts  
to Hospitals

Thank you again for allowing us to meet with you, to help you better understand the massive negative impact that hospitals in the Hampton Roads area will face if the proposed plan is adopted. As agreed Monday here's a letter that represents our concerns surrounding TRICARE OPPS. Feel free to use this letter in reaching out to committee staff.

**ISSUE:**

The proposed TRICARE OPPS rule appears flawed; at a minimum it should be re-issued with the required regulatory analysis as well as a substantially revised meaningful transition among other payment adjustments to mitigate the disproportionate financial impact to Hampton Roads hospitals. This will help to ensure that our hospitals can continue to optimally serve the health needs of our military personnel, retirees and their families. Currently the Hampton Roads hospitals of Bon Secours and Sentara alone service over 100,000 of our military active and retired servicemen, women and families. We provide more than 55,000 emergency service visits annually for TRICARE beneficiaries located in the country's largest concentration of active duty and retired military personnel. In a period of economic crisis and war, this \$38 million annual reduction is exceptionally ill timed for our community.

**BACKGROUND:**

We support TRICARE's goal of adopting payment methods that provide incentives to hospitals to furnish outpatient services in an efficient and effective manner. However, we strongly believe that the proposed rule is inconsistent with these goals and will result in severe, disruptive underpayments to our hospitals, threatening our ability to furnish needed health care services to TRICARE beneficiaries. In addition, in these economic times where more and more Americans are losing health insurance coverage, it will potentially impact our ability to provide for the indigent and uninsured. While we understand the congressional mandate that TRICARE use Medicare's hospital outpatient reimbursement rules as a model, Congress instructed the Department of Defense (DOD) only to follow Medicare rates "to the extent practicable".

In the Hampton Roads area, in particular it is not practicable. Following the Medicare rates will have what we believe are serious unintended consequences.

We would ask that the DOD use the wide latitude, given to them by Congress, to make an exception to this proposed regulation. The exception or "hold harmless" provision would apply to those hospitals in situations like ours, which are disproportionately impacted by high volume and the presence of a large military hospital. Hampton Roads area hospitals receive a larger percentage of emergent visits when compared to total outpatient visits, as many non-emergent services are required to be performed at Portsmouth Naval Hospital.

### **Key Concerns with TRICARE'S proposed Rule:**

**Inadequate Payment:** TRICARE proposes to adopt virtually the same Medicare payment rules that currently force hospitals to incur, on average, significant losses when they treat seniors. Our hospital margins for Medicare outpatient services are on an average at a loss. TRICARE's proposal will collectively cut our reimbursements by 47%. We believe it is noteworthy to point out that Medicare is a federal entitlement program, whereas TRICARE beneficiaries are active and retired military employees of the federal government.

**Flawed Impact Analysis:** The proposed rule's regulatory impact analysis lacks transparency, relies on a flawed assessment, outdated data and is clearly inaccurate in concluding the net impact of the proposed rule is \$81million a year. This is less than the \$100 million "Major rule" threshold that would trigger a detailed economic impact analysis and the consideration of additional alternatives. Such an analysis would potentially mitigate the impact of the rule on our hospitals. In our combined hospitals in the Hampton Roads area alone the adverse impact modeled using existing Medicare reimbursement is \$38 million annually. Other hospitals are also negatively impacted across the country. It is our understanding that one particular large national hospital system alone is facing a \$75 million negative impact. These combined decreases clearly take the assessment of impact over the \$100 million threshold.

**Insufficient Transition:** DOD proposes two options to adjust payments, both of which are limited with respect to scope of services, hospitals affected, duration and impact. The first is the emergency phase-in allowances, (Temporary Transition Payment Adjustment) (TTPA) which barely scratch the surface of the loss. For example in Sentara's case the first year phase-in allowance would generate approximately a \$3 million offset against losses of \$23 million. For Bon Secours, it would represent \$786 thousand against losses of \$15 million. The second adjustment (Temporary Military Payment Contingency Adjustment) (TMPCA) has not clearly been defined and is at best ambiguous. There has been no disclosure of what data was used to arrive at these adjustments and therefore this cannot be quantified. In addition there will be a great deal of information technology work needed, as TRICARE's proposed OPPS will add various unique provisions (different than Medicare OPPS) such as an alpha digit to billings.

### **Recommendations:**

We believe the DOD is under an obligation to prepare a regulatory flexibility analysis and investigate the availability of less burdensome alternatives affecting hospitals. Therefore, the proposed rule should be at a minimum delayed or withdrawn completely in its current form. In addition TRICARE should implement a method by which hospitals impacted disproportionately receive an exemption to the rule. This will help assure that our active and retired military personnel and their families continue to receive quality healthcare.