

January 9, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Blvd
Baltimore, MD 21244

Re: 340B Remedy for Repayment of Unlawful Cuts to Part B 340B-Purchased Drugs

Dear Administrator Brooks-LaSure,

Vizient, Inc. appreciates the Centers for Medicare & Medicaid Services' (CMS') decision in the CY 2023 Outpatient Prospective Payment System (OPPS) final rule that would reinstate reimbursement rates to Average Sales Price (ASP) plus 6 percent for certain 340B acquired medications. Vizient also notes that, in the same final rule, CMS indicated additional rulemaking regarding the remedy for CY 2018-2022 reimbursements cuts is forthcoming. As CMS considers potential approaches, Vizient urges the agency to refrain from proposing policies that would impose excessive burdens on providers, including potentially requiring hospitals to resubmit any portion of the previous four years of claims. Further, Vizient emphasizes the need for hospitals to be remedied, and without undue delay.

Vizient, Inc. provides solutions and services that improve the delivery of high-value care by aligning cost, quality and market performance for more than 60% of the nation's acute care providers, which includes 97% of the nation's academic medical centers, and more than 20% of ambulatory providers. Vizient provides expertise, analytics, and advisory services, as well as a contract portfolio that represents more than \$130 billion in annual purchasing volume, to improve patient outcomes and lower costs. Headquartered in Irving, Texas, Vizient has offices throughout the United States.

As CMS may be aware, several Medicare Administrative Contractors (MACs) have recently requested that hospitals resubmit claims so that 2022 reimbursement rates from claims submitted on or before September 27, 2022, can be changed from ASP minus 22.5 percent to ASP plus six percent. Such a process is extremely burdensome to hospitals and is an unnecessary hurdle. Vizient's hospital members have indicated that the MACs have provided this resubmission process under the belief that CMS will require claims to be resubmitted as part of the remedy for 2018-2022, given the agency requested comments on such a remedy in the Calendar Year 2023 Outpatient Prospective Payment System proposed rule. Vizient and our members note that this process will not only impose significant burden upon providers, it will similarly require extensive time, additional labor, and added expense. Further, a resubmission requirement would also be complicated by Medicare timely filing requirements which would need to be clarified. Thus, requiring that providers resubmit claims would be administratively burdensome, costly to providers, and could be subject to even greater delays as new processes and guidance would need to be developed. Thus, Vizient requests CMS promptly and without undue burden appropriately reimburse hospitals who have been harmed by the agency's 2018 policy and clarify that MACs cannot require providers to resubmit claims in order to be repaid per the Court's directive.

Vizient membership includes a wide variety of hospitals ranging from independent, community-based hospitals to large, integrated health care systems that serve acute and non-acute care needs. In closing, on behalf of Vizient, I would like to thank CMS for considering this request. Please feel free to contact me, or Jenna Stern at jenna.stern@vizientinc.com, if you have any questions or if Vizient may provide any assistance as you consider these issues.

Respectfully submitted,



Shoshana Krilow
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Vizient, Inc.