7272 Wisconsin Avenue
Bethesda, Maryland 20814
301-(657)-3000
Fax-(301)-664-8877
www.ashp.org

Statement Before the Advisory Panel on Ambulatory Payment Classification Groups
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My name is Justine Coffey and I am representing the American Society of Health-System Pharmacists (ASHP). ASHP is the professional and scientific association that represents pharmacists who practice in hospitals, health maintenance organizations, long term care facilities, and other components of health systems.

ASHP is very concerned about pharmacy reimbursement rates under the Hospital Outpatient Prospective Payment System (HOPPS), and the Centers for Medicare and Medicaid Services' (CMS) continued lowering of these rates. In 2008, CMS lowered reimbursement rates for drugs without pass-through status administered in hospital outpatient departments to average sales price (ASP) plus five percent, and now, in 2009, CMS has lowered reimbursement rates even further, to ASP plus four percent.

Reimbursement of separately-payable drugs at ASP plus four percent is insufficient to cover pharmacy costs, in particular the costs of managing medications, including ensuring patients receive the correct dosage of a medication, determining drug interactions and contraindications, and verifying the appropriateness of a drug therapy.

In fact, the Medicare Payment Advisory Commission's (MedPAC) June 2005 Report to the Congress found that costs relating to pharmacy services overhead are significant, ranging from 26% to 28% of pharmacy departments' direct costs, with the rest of the costs attributed to the acquisition cost of drugs. Hospitals and health systems and their pharmacy departments bear the burden of the lower reimbursement rate, while providing necessary patient care, knowing that current reimbursement does not cover the costs incurred. Additionally, the current CMS methodology does not comply with the statutory requirement to reimburse drugs at the average acquisition cost for the drug for the year.

The July 2008 RTI International report further underscores the flaws in CMS's methodology, finding that CMS substantially underestimates the actual costs of acquiring and supplying separately paid drugs. When RTI's recommended adjustments are applied to CMS's calculations, the estimated mean unit cost of separately paid drugs is ASP plus 20 percent.

1. Therefore, ASHP asks the Advisory Panel on Ambulatory Payment Classification Groups (APC Panel) to recommend that CMS reimburse separately paid drugs at the rates applicable in physicians' offices. Specifically, CMS should reimburse separately paid drugs at no less than ASP plus six percent.

Because CMS includes 340B hospitals in its analysis when determining the payment rate, CMS underestimates the aggregate costs of drugs for many hospitals, and the drug reimbursement rate under OPPS is too low. Sales under the 340B program are excluded from the ASP calculation, and should also be excluded from the calculation of drug reimbursement rates under the OPPS. If CMS were to perform this new calculation, the agency would see that CMS should be reimbursing separately paid drugs at no less than ASP plus six percent.

In its changes to the Hospital Outpatient Prosepective Payment System and CY 2009 Payment Rates Final Rule With Comment Period, the agency looks at whether there should be two separate payments, one for 340B participating hospitals and the other for those hospitals that do not participate in the 340B program. If CMS institutes such a policy, the agency will essentially be allocating the savings from the 340B program to the Medicare program, rather than to those safety net hospitals that provide the uncompensated care. Such a reallocation of 340B savings was not the intent of the 340B program, and these savings should remain with the covered entity.

For a hospital to participate in the 340B program, certain requirements must be met. In particular, the hospital must have a disproportionate share adjustment percentage greater than 11.75 percent, as determined under Section 1886(d)(5)(F) of the Social Security Act. To meet this requirement, hospitals that participate in the 340B program must serve a unique population of largely indigent and uninsured patients. The 340B program is intended to allow these safety net hospitals that serve these patients to save on their drug costs by purchasing drugs at a lower price, and the intent of the program is to allow the savings to remain with the hospital, not to be passed on to public or private payers.

CMS should not use the equitable adjustment authority in section 1833(t)(2)(E) of the Social Security Act to adjust OPPS payments to hospitals for separately payable drugs based on hospitals' participation in the 340B program, so that drug payment for the two classes of hospitals (340B and non-340B) would reflect the average drug acquisition and pharmacy overhead costs specific to each class of hospital. Instead, payments to both 340B and non-340B hospitals should be made at equivalent rates.

2. If CMS does not implement recommendations three and four below, then at a minimum, ASHP asks the APC panel to recommend that CMS recalculate drug reimbursement rates under OPPS, excluding 340B-qualified sites' drug acquisition data from its rate-setting calculations for drugs. CMS should continue to make payments for separately paid drugs to both 340B and non-340B hospitals at equivalent rates.

In 2008, ASHP, along with other stakeholders, presented a proposal to establish more appropriate payments for drugs and services. Under the proposal, CMS would continue to package payment for drugs that have a cost per day of less than $60. However, CMS would package payment for the drug at ASP plus six percent instead of its costs derived from charges, which would ensure that OPPS rates for all drugs more accurately reflect hospitals' acquisition costs. CMS would then use the difference between payment for all drugs at ASP plus six percent and the estimated costs under the current methodology to create a pool to fund payments for pharmacy services. This approach also would refine the existing OPPS methodology for estimating pharmacy overhead cost in a budget neutral manner, without redistributing money from the payment for nondrug components of other services to payment for drugs.

3. ASHP again asks the APC Panel to recommend that CMS package payment for all drugs that are not separately paid at ASP plus 6% and use the difference between these rates and CMS's costs derived from charges to create a pool that is used to fund payment for pharmacy service costs more appropriately.

4. Furthermore, ASHP asks the APC Panel to recommend that CMS allocate the funds in the resulting pool using a three-tiered system to set different payments depending on the level of pharmacy services.

Thank you for the opportunity to present these comments.