

Congress of the United States
Washington, DC 20515

September 9, 2024

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Secretary Becerra and Administrator Brooks-LaSure:

We write to express our strong support of the Biden-Harris Administration's efforts to address the maternal health crisis in the United States. Specifically, we were pleased with the proposals outlined in the Department of Health and Human Services (HHS) Centers for Medicare & Medicaid Services' (CMS) Calendar Year (CY) 2025 Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System Proposed Rule ("proposed rule"). This proposed rule would protect the health and safety of pregnant women and postpartum patients, improve maternal health for women across the country and reduce disparities in maternal health.¹ We applaud the Biden-Harris Administration's efforts to cut the rates of maternal mortality and morbidity and to address this crisis with the urgency it demands. We strongly support the policies in the proposed rule and urge CMS to swiftly finalize the rule following the public comment period.

The United States has one of the highest maternal mortality rates of any wealthy country in the world and the highest of any developed nation in the world.² In 2022, there were 22 maternal deaths for every 100,000 live births in the United States, more than double the rate of other high-income countries.^{3,4} The maternal health crisis in our nation also disproportionately impacts racial and ethnic minorities. American Indian, Alaska Native, non-Hispanic Black, Native Hawaiian, and Pacific Islander women are significantly more likely to face maternal

¹ Centers for Medicare & Medicaid Services, *Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems*, 89 Fed. Reg. 59186 (July 22, 2024) (proposed rule).

² Janice Hopkins Tanne, *US Maternal Mortality is Far Higher than that of Other Rich Nations*, Study Reports, BMJ (June 10, 2024).

³ *Id.*

⁴ Munira Gunja et al., *Insights into the U.S. Maternal Mortality Crisis: An International Comparison*, Commonwealth Fund (June 4, 2024).

morbidity and two to four times more likely to experience maternal mortality than White women.^{5,6,7}

Four in five pregnancy-related deaths in our nation are preventable.⁸ A pregnancy-related death is defined as a death during pregnancy or within one year of the end of pregnancy from a pregnancy complication. Approximately 13 percent of all pregnancy-related deaths occur at the time of delivery, and nearly 12 percent occur between one and six days after the end of pregnancy.⁹ According to the data from Maternal Mortality Review Committees, the leading underlying causes of pregnancy-related deaths include excessive bleeding, cardiac and coronary conditions, infection, thrombotic embolism, and cardiomyopathy.¹⁰ Thousands of women also experience significant long-term consequences to their health such as heart issues, the need for blood transfusions, eclampsia, and blood infections. These troubling statistics underscore the need for quality improvements in hospitals to ensure that pregnant women get the necessary lifesaving care at the right time.

We strongly support the proposals for new conditions of participation (CoP) for hospitals and Critical Access Hospitals (CAHs) for obstetrical services. Congress has provided CMS with broad authority to establish health and safety regulations including the authority to establish requirements to protect the health and safety of pregnant and postpartum women. The Social Security Act requires hospitals participating in the Medicare program to meet certain specified requirements and requires hospitals to meet other requirements as the HHS Secretary deems necessary to protect the health and safety of individuals. We are concerned that there are currently no federal baseline requirements for maternal health including for staffing, training, and quality assessment. We believe the provisions in the proposed rule will protect patient health and safety, and are pleased CMS is exercising its statutory authority to require CoPs for obstetrical care. Requiring CoPs for obstetrical care would standardize care across hospitals and improve the quality and safety of maternal care across the nation, protecting the health and safety of pregnant and postpartum women. We highlight proposals we particularly support and urge you to finalize the proposals that require:

1. Hospitals and Critical Access Hospitals (CAHs) to provide services in accordance with nationally recognized acceptable standards of practice for the health care of pregnant, birthing, and postpartum patients, including physical and behavioral health;
2. Hospitals and CAHs' outpatient obstetrical services be consistent in quality with inpatient care, and that the organization of the obstetrical services be appropriate to

⁵ Centers for Medicaid & Medicaid Services, *Advancing Rural Maternal Health Equity* (May 2022).

⁶ Emily E. Peterson et al., *Racial/Ethnic Disparities in Pregnancy-Related Deaths — United States, 2007–2016*, Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report (Sept. 6, 2019).

⁷ Lindsay K. Admon et al., *Racial and Ethnic Disparities in the Incidence of Severe Maternal Morbidity in the United States, 2021–2025*, Obstetrics and Gynecology (Nov. 2018).

⁸ Centers for Disease Control and Prevention, *Pregnancy-Related Deaths: Data From Maternal Mortality Review Committees in 36 U.S. States, 2017–2019* (May 28, 2024).

⁹ Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2022*, National Center for Health Statistics (May 2024).

¹⁰Centers for Disease Control and Prevention, *Pregnancy-Related Deaths: Data From Maternal Mortality Review Committees in 36 U.S. States, 2017–2019* (May 28, 2024).

- the scope of services offered by the hospital and integrated with other departments of the hospital;
3. Hospitals and CAHs to have obstetric patient units be supervised by a provider with the necessary education and training, and that obstetrical privileges be delineated for all providers;
 4. Hospitals and CAHs to have at minimum a basic level of equipment on site to manage maternity care;
 5. Hospitals and CAHs to track and measure the quality and performance of maternity services and build in quality improvement projects annually;
 6. Hospitals and CAHs train their staff on the appropriate evidence-based protocols and quality improvement in maternity care; and
 7. All hospitals and CAHs that offer emergency services to have clear protocols in emergency situations for the stabilization or transference of patients needing maternity care so that staff can quickly respond to maternal care.

We also urge you to extend the emergency services conditions of participation to rural emergency hospitals (REHs) so that they too are required to have clear protocols specific to maternity care, including the stabilization or transference of patients. Research indicates that the number of hospitals providing obstetric services has declined in rural communities, and more than half of rural counties did not have such services, according to the most recent data available.¹¹ We believe it is essential that hospital emergency departments in rural areas, including those in CAHs and REHs have clear standards to ensure that pregnant women are able to receive necessary lifesaving care promptly.

Congress has provided CMS with broad authority to establish regulations to protect the health and safety of patients, including those who are pregnant, postpartum, and birthing. The implementation of this final rule is imperative in addressing the maternal health crisis, reducing health disparities, and promoting safe and high-quality care. We urge CMS to finalize the proposed rule to protect the health safety of all those seeking maternity care in the United States.

Sincerely,



Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce



Richard Neal
Ranking Member
Committee on Ways and Means

¹¹ Government Accountability Office, *Maternal Health: Availability of Hospital-Based Obstetric Care in Rural Areas* (Oct. 2022) (GAO-23-105515).