United States Senate
WASHINGTON, DC 20510

September 13, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health & Human Services
200 Independence Avenue S.W.
Washington, D.C. 20201

Dear Administrator Brooks-LaSure,

I appreciate the Centers for Medicare & Medicaid Services (CMS) commitment to implementing the Rural Emergency Hospital (REH) designation, a new voluntary Medicare payment for rural hospitals.[1] Since my June 2021 letter,[2] CMS has issued a request-for-information (RFI), appointed a project manager, and issued proposed regulations to implement REH. Furthermore, your agency has communicated that REH will be fully implemented for hospitals beginning January 1, 2023. Hospitals in Iowa and across the country are anxiously awaiting final federal regulations. I wanted to provide feedback to ensure REH works for rural communities and follows congressional intent.

Living in rural Iowa, I understand the importance of accessing health care services close to home. I have fought to ensure rural America has access to health care. In 2015, I brought rural health care stakeholders together to develop the concept of what eventually became REH.[3] As Finance Committee chairman during the 116th Congress, I worked with my colleagues to enact several victories for rural health care including supporting rural hospitals in response to the COVID-19 pandemic and making mental telehealth visits a permanent benefit under Medicare.[4] This Congress, I have worked with a bipartisan group of my colleagues to pass the *Rural Health Clinic Protection Act*[5] and introduce the *Rural Hospital Support Act*[6] to protect key Medicare

[1] Public Law (P.L.) 116-260, Division CC, Title I, Subtitle B, Section 125, "Medicare Payment for Rural Emergency Hospital Services."
[2] Office of Senator Charles E. Grassley, "Grassley, Klobuchar Call on CMS to Prioritize New Rural Hospital Program," June 10, 2021, https://www.grassley.senate.gov/news/news-releases/grassley-klobuchar-call-on-cms-to-prioritize-new-rural-hospital-program.
[3] Office of Senator Charles E. Grassley, "Grassley, Gardner Introduce Bill to Give Rural Hospitals New Option to Stay Open, Maintain Emergency Rooms For Residents," June 23, 2015, https://www.grassley.senate.gov/news/news-releases/grassley-gardner-introduce-bill-give-rural-hospitals-new-option-stay-open.
[4] Office of Senator Charles E. Grassley, "Q&A: Big Victories for Rural Health Care," January 15, 2021 https://www.grassley.senate.gov/news/news-releases/qanda-big-victories-for-rural-health-care.
[5] Office of Senator Charles E. Grassley, "Grassley-Backed Measure to Protect Rural Health Clinics Passes Senate," March 25, 2021, https://www.grassley.senate.gov/news/news-releases/grassley-backed-measure-to-protect-rural-health-clinics-passes-senate.
[6] Office of Senator Charles E. Grassley, "Grassley, Casey Introduce Bill to Provide Rural Hospitals with Financial Stability and Security," April 5, 2022, https://www.grassley.senate.gov/news/news-releases/grassley-casey-introduce-bill-to-provide-rural-hospitals-with-financial-stability-and-security.

rural hospital programs. All of this work builds on my successful efforts to support rural health. This includes my work to support the Critical Access Hospital program, reauthorize the Medicare-Dependent Hospital program, establish and reauthorize the Low Volume Hospital program, and establish and reauthorize the Rural Community Hospital Demonstration, to name a few. I am committed to supporting rural America's efforts to improve health care access.

Access to emergency and primary health care services are basic quality of life issues for communities of any size. A Government Accountability Office (GAO) report found more than 100 rural hospitals have closed in 28 different states since 2013.[7] Furthermore, the rise of historic inflation and recent workforce trends have strained hospital finances.[8] A MedPAC report found "hospital closures were preceded by dramatic declines in inpatient admissions" and "despite the loss of inpatient volume, these rural hospitals were important sources of outpatient care, especially emergency department (ED) care."[9] The REH allows rural hospitals that can no long support inpatient services the flexibility to continue offering vital services that meet the needs of their community. This includes maintaining 24/7 emergency care, outpatient care, ambulance services, and more. As the National Advisory Committee on Rural Health and Human Services stated in its recommendations to your agency's RFI, "the REH model will fill an important need in rural communities," and the additional facility payment will allow "each facility the flexibility to use those funds to best meet local need."[10] Therefore, timely implementation of REH with an understanding of the needs and challenges of rural hospitals is critical to maintain health care access for rural America.

Since your agency issued REH proposed regulations in June and July 2022, I have heard the following from rural hospitals and communities:

- **Promote efficiency and flexibility in the final regulations**. CMS must implement the final regulations with an understanding of the challenges rural hospitals and communities face while maintaining standards for safety and high-quality care. This includes recognizing that additional, inflexible, and/or complicated administrative burdens hinder the potential for a rural hospital to transition to an REH.

- **Maintain rural health clinic reimbursement methodology**. Many rural hospitals have operated rural health clinics (RHCs) to serve their community or a nearby even more rural community for many years. I request the agency clarify that RHCs currently operated by a rural hospital continue to maintain their RHC grandfathered status for Medicare reimbursement. Previous RHC reimbursement reforms had exceptions to the payment limit for a grandfathered RHC.

[7] Government Accountability Office, Publication No. 21-93, https://www.gao.gov/products/gao-21-93.
[8] U.S. Department of Labor, Bureau of Labor Statistics, "Consumer Price Index – July 2022," https://www.bls.gov/news.release/pdf/cpi.pdf.
[9] MedPAC, "Congressional request: Medicare beneficiaries' access to care in rural areas (interim report)," June 15, 2021, https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/default-document-library/jun21_ch5_medpac_report_to_congress_sec.pdf.
[10] National Advisory Committee on Rural Health and Human Services, "RURAL EMERGENCY HOSPITAL Policy Brief and Recommendations to the Secretary," October 2021, https://ruralhealthinfocenter.health.mo.gov/wp-content/uploads/sites/14/2021/11/2021-Rural-Emergency-Hospital-Policy-Brief.pdf.

- **Understand the impact of reporting requirements for rural hospitals with low case volume**. As the statute clear states, CMS must "take into consideration ways to account for rural emergency hospitals that lack sufficient case volume to ensure that the performance rates for such measures are reliable."[11] The agency must balance the need for oversight and policy analysis with the reality that an REH may only provide certain episodes of care once or a few times a year. The agency should minimize the administrative burden and reporting requirements by considering an REH's low case volume.

- **Recognize the important role of ambulance and emergency services and its reimbursement**. As hospitals transition to REH, some of which are currently reimbursed under cost-based, I ask CMS to maximize to the fullest extent the reimbursement for ambulance and emergency services. With the likelihood that hospital ambulance and emergency service utilization will increase with more transfers to a hospital with an inpatient unit, it is critical an REH has minimum administrative burden and maximum flexibility to receive adequate reimbursement. Furthermore, considerations about workforce and the transition to an REH should be kept in mind. The additional 5% payment for services and fixed monthly facility fee will address many needs, but the agency must ensure reimbursement methodology and administrative burden for these services does not hinder the ability of an REH to operate.

- **Provide opportunity for stakeholder feedback on key regulatory decisions**. Through your agency's RFI and now proposed regulations, the agency has requested additional comments on key pieces of the proposed regulations. It is critical rural hospitals and communities have the opportunity to provide feedback on CMS proposals and not to open-ended questions with little understanding of the agency's perspective. I request the agency consider indicating what future rulemaking the agency may conduct on REH. While I do not want to see the agency move the goal post on critical regulatory components of REH, it is also important the agency create a regulatory environment for stakeholders to provide necessary feedback to ensure REH is workable for rural communities.

Finally, I encourage the agency's leadership and staff working on REH implementation to maximize the opportunity to listen to rural stakeholders, especially rural hospitals and communities. In the past few years, I have visited over 35 rural hospitals and clinics across Iowa. There is no better way to understand rural health care challenges and impact of federal policymaking than to visit a rural hospital and its community. You and your agency have an open invitation to visit a rural Iowa hospital and meet with its leaders and community members to understand the impact federal regulations and guidance will have on rural health care.

[11] P.L. 116-260, Division CC, Title I, Subtitle B, Section 125, "Medicare Payment for Rural Emergency Hospital Services."

REH is a bipartisan solution that enables rural hospitals the option to right-size their health care infrastructure while maintaining essential medical services for their communities. The existence of a rural hospital contributes to economic growth and can sustain a community. Recent research on rural hospital closures has reinforced the importance of rural hospitals in a community.[12] CMS must finalize regulations with minimal administrative burden, maximum flexibility, and without delay. Thank you for your agency's efforts and commitment to ensuring rural hospitals and communities can thrive.

Sincerely,

Charles E. Grassley
United States Senator

[12] Mueller, Keith, Rural Policy Research Institute Center for Rural Health Policy Analysis, "Rural Community Response to Hospital Closure," December 2021.