TO: Members of the Kansas Congressional Delegation

FROM: Tom Bell, President and CEO  
Chad Austin, Executive Vice President

DATE: February 7, 2020

RE: Medicaid Fiscal Accountability Rule

On behalf of the Kansas Hospital Association, we are writing you today to ask for your support in encouraging the Centers for Medicare and Medicaid Services to pull back their proposed Medicaid Fiscal Accountability Rule. While its title may sound noble, MFAR’s actual effect if implemented could be devastating to payment programs that hospitals in Kansas and around the country have come to rely on. In particular, it would place provider assessment programs in jeopardy.

Currently, when all payment streams available to hospitals through federal and state sources are taken into account, Medicaid only reimburses hospitals in Kansas, on average, about 69 cents on every dollar that it spends providing care to program beneficiaries. And since hospitals provide the bulk of the nation’s charity care as the providers of last resort, we disproportionately shoulder the burden of uncompensated care delivered to low-income Americans.

In order to offset these kinds of cost reimbursement imbalances, the federal government allows states the opportunity to levy taxes on healthcare services in order to match this revenue with federal funds and return them by formula to participating providers. From 2011-2019, Kansas’ hospitals share of these provider assessments totaled approximately $110 million annually, but at a tax rate of 1.83% of net inpatient revenues, Kansas’ program was one of the smallest in the country. So last year, the Kansas Legislature passed a bill that set the rate at 3%, nearer to the national average. This increase is intended to provide our state’s hospitals some funding certainty despite larger questions about federal payments in light of ongoing sequestration and possible looming disproportionate share hospital (DSH) funding cuts as mandated by the Affordable Care Act.

The MFAR, if implemented, would remove any certainty for the availability of these funding streams by subjecting them to CMS’ sole and unfettered discretion via a host of vague, new regulatory standards such as “totality of circumstances,” “net effect,” and “undue burden.” Generally, when states create their Medicaid plans, they do so by basing their financial projections on historical trends; the MFAR renders many of
these trends possibly irrelevant. Indeed, up to 7.6% of all Medicaid spending and 16.9% of Medicaid payments to hospitals could be caught up in this regulatory uncertainty. As you can imagine, loss of this funding would be devastating to the very hospitals that can least afford such a cut.

We at the KHA worry that the MFAR’s vague regulatory language could open the door for the selective rejection of certain state provider assessment plans based off of political expediency rather than programmatic concerns. As such, we respectfully request that you ask CMS to reconsider the proposed MFAR and go back to the drawing board. Kansas’ hospitals routinely engage with federal and state oversight bodies to ensure that provider assessment funds aren’t misappropriated. These funding streams are vitally important for hospitals that care for our nation’s most vulnerable populations, and we ask that you work with us to protect them.