***KHA's Federal Advocate***
**August 1, 2025**

**Senate Prepares for August Recess**
Congress is about to enter fully into its August recess. Yesterday, the Senate Appropriations Committee ended on a high note by marking up the fiscal year 2026 Labor, Health and Human Services, and Education Appropriations bill. The Senate will shortly join the House on its traditional summer break, which started earlier than expected last week. Both Chambers are in recess until the Tuesday after Labor Day.

The Senate's fiscal year 2026 Labor-H bill largely ignores many of the cuts the Trump Administration submitted to Congress as part of its budget recommendation. For example, research funding for the National Institutes of Health, which was slated for a substantial cut in the president's budget, got an increase over its FY 2025 amount by $400 million.

Kansas Hospital Association staff expressed concern to the Kansas Congressional Delegation that the president's budget zeroed out the Medicare Rural Hospital Flexibility Grant program and the Small Rural Hospital Improvement Grant program. Both programs provide technical support and direct funding to the state's rural hospitals. Unsurprisingly, Kansas is one of the largest beneficiaries of these funds.

KHA submitted requests to Senator Jerry Moran's office to keep both important programs funded. He is a member of the Senate Appropriations Committee and collaborated with his colleagues to not only maintain their funding streams but also increase them over the enacted FY 2025 amount. FLEX received a $2 million increase, bringing its total FY 2026 funding to $32 million. The State Health Insurance Assistance Program received a $1 million increase, bringing its total FY 2026 funding to nearly $22 million.

The House Appropriations Committee expects to mark up its version of the bill after Congress returns in September. Both chambers are moving quickly through their FY 2026 bills. The Senate has marked up eight of 12 bills and could, by the end of the week, have passed three. The House has marked up nine and passed two. Although it may seem possible that many parts of the federal government could be funded before the start of the federal fiscal year 2026 on Oct. 1, hurdles remain. A continuing resolution extending debate on remaining appropriations bills into late fall seems likely.

**Hospitals Encouraged to Respond to Proposed Medicare Funding Clawback**
As part of the 2026 Outpatient Prospective Payment System Proposed Rule, the Centers for Medicare & Medicaid Services proposes to accelerate the timeline for clawing back hospital funds resulting from the agency's previous unlawful 340B Drug Pricing Program between calendar years 2018 and 2022, as well as to conduct a drug acquisition cost survey.

The Kansas Hospital Association, alongside national partners, believes these proposals are misguided and should not be finalized.

It is essential to recognize that the broader implications of this accelerated repayment timeline would not only result in a faster and more significant financial clawback, but it would also set the stage for additional rate reductions in the future that affect all hospitals regardless of 340B or Prospective Payment System status.

KHA is sharing a template comment letter from the American Hospital Association to provide you with ample time to personalize your feedback and submit comments to CMS by Sept. 15. Comments may be submitted electronically.

**Background:**
From calendar year 2018 to CY 2022, CMS expanded its policy to reduce payments for 340B-acquired drugs from Average Sales Price + six percent to ASP -22.5 percent to redistribute savings to increase payments for non-drug items and services under the OPPS. The Supreme Court ruled in *Am. Hosp. Ass'n v. Becerra,* the payment reductions for 340B drugs were unlawful because CMS had not conducted a survey of hospital drug acquisition costs.

As a result, CMS revised the payment policy to pay for 340B drugs at ASP + six percent in a single-lump sum payment. To recoup the $7.8 billion increase that was made for non-drug items and services from CY 2018 to CY 2022, CMS adopted an annual prospective payment reduction of 0.5 percent to the OPPS conversion factor in the 340B Final Remedy Rule that was to start in CY 2026. Recoupment was initially estimated to take approximately 16 years; however, CMS has since determined that a shorter timeframe would be more appropriate, given the potential that not all overpaid providers may remain by 2041.

Therefore, CMS is proposing to revise the annual reduction percentage for non-drug items and services from 0.5 percent to 2.0 percent (1.95 percent), effective for CY 2026 and estimated to end in CY 2031. This policy excludes hospitals that enrolled in Medicare after Jan. 1, 2018.