

December 31, 2007

[hacpoa@cms.hhs.gov](mailto:hacpoa@cms.hhs.gov)

Hospital-Acquired Conditions and Present on Admission  
Listening Session Comments  
Centers for Medicare and Medicaid Services  
Baltimore, MD 21224-1850

Dear CMS:

Consumers Union, the independent, non-profit publisher of Consumer Reports, submits the following comment in response to the December 17, 2007, Listening Session on Hospital-Acquired Conditions and Present on Admission Indicator Reporting.

We appreciate the efforts made by CMS so far to end hospital-acquired infections and other preventable events.<sup>1</sup> For the next cycle of rulemaking, we urge CMS to continue pushing for safer health care for Medicare recipients and all patients seeking care in American hospitals and other health care facilities. In particular, we urge you to quickly move to address mostly preventable infections caused by the spread of methicillin-resistant *Staphylococcus aureus* (MRSA), vancomycin-resistant enterococcus (VRE), and other multi-drug resistant organisms in our nation's hospitals and to adopt outcome measures, such as health care facility infection rates and hospital readmission rates, for your public website, Hospital Compare.

Our Stop Hospital Infections Campaign has heard from almost two thousand people who have been devastated by hospital-acquired infections, and the majority of these were caused by MRSA or VRE. And we have heard from many who were infected with *clostridium difficile*-associated disease, and other antibiotic-resistant organisms. These superbugs collectively, and MRSA in particular, highlight the immediate need for CMS to do all it can to get hospitals to take proactive steps to aggressively address this public health crisis.

We do not believe it is adequate to say, as the Listening Session slides said, that "CDC will *discuss* the creation of a new [MRSA] code at the March 19-20, 2008 meeting" (emphasis added). It is not enough to simply discuss and consider – CMS must take the lead by directing this policy committee to come up with solutions - ways to document and report MRSA. Coding for MRSA should start in FY 2009 (October 1, 2008).

---

<sup>1</sup> Federal Register, Vol. 72, No. 162, August 22, 2007 page 47218.

MRSA deaths are estimated at 19,000 a year and overall deaths from HAIs are estimated at almost 100,000—about 11 deaths per hour. The government’s response to this public health disaster is entirely too casual and slow. If 95 domestic passenger airliners crashed every year, the entire Federal government would be working on corrective reforms. But that is exactly what is happening in terms of MRSA deaths, largely in our nation’s hospitals.<sup>2</sup>

CMS should push for a national solution. Consumers Union has worked for the past four years to help enact laws in 20 states for the reporting of various infections. Some states are doing an excellent job, but it is time for national leadership.

The state laws show that hospitals can and should be doing more to fight infections. For example, in South Carolina, a requirement for collecting and reporting infection rates was partially inspired by the activism of the Toolen family whose teenage son has suffered years of serious disability and loss of an active young life due to a MRSA infection.<sup>3</sup> A group of 60 New York State hospitals have joined in an effort to reduce infections, and are achieving dramatic results and huge savings in lives and money.<sup>4</sup> Loyola University Medical Center will be screening all patients for MRSA, and Illinois, New Jersey and Pennsylvania hospitals are now required to screen ICU and other high risk patients for MRSA and isolate those found to be colonized or infected. These are methods that have proven to be successful in many countries and hospitals. Despite some initial start-up costs, for-profit hospital chains, like HCA, see the advantage in both quality and savings of screening at risk patients.<sup>5</sup> The VA has taken a lead in fighting MRSA in all of its hospitals. Foreign nations, especially those in Scandinavia and the Netherlands, have virtually eliminated MRSA.<sup>6</sup>

But clearly more needs to be done and clearly, along with the state actions, we need national action. A recent online poll by the Association for Professionals in Infection Control (APIC) found that 50 percent of those surveyed said their facility is “not doing as much as it could or should to stop the transmission of MRSA.” And that is likely to continue, unless CMS provides the incentives for them to do more.

We strongly urge that CMS continue to keep the patient in mind as these policies are developed. It was important that the agency addressed patient protections in the last round by making it clear that patients cannot be billed for care they received but that Medicare will no longer pay extra for. However, many patients have expressed their doubt that CMS will pay close enough attention to the details. CMS should address payment for subsequent hospitalizations and other care that is needed by the patient due to the preventable event in the hospital. Further, is there an adequate avenue for these

---

<sup>2</sup> If all infection deaths are counted, the analogy would be to 500 crashes per year.

<sup>3</sup> See The Item, Sumter, SC, November 18, 2007, “This was preventable: Family lobbies to force hospitals to disclose MRSA infections.”

<sup>4</sup> The New York Sun, “New York Hospitals Expand Efforts to Reduce Infections,” Dec. 17, 2007.

<sup>5</sup> HealthLeadersMedia, Molly Rowe, “MRSA, MRSA Me,” Nov. 16, 2007.

<sup>6</sup> Laxminarayan and Malani, “Extending the Cure: Policy Responses to the growing threat of antibiotic resistance.” *Resources of the Future*, 2007, p. 29.

patients to bring such issues to the attention of the agency and get them resolved quickly? How will CMS monitor whether hospitals are improperly billing patients? How will patients report to CMS when they feel a hospital has discriminated against them? How do patients alert CMS when hospitals discharge them early – while they are still ill - knowing when the patient is readmitted the hospital will get full payment for the care needed due to the hospital-caused injury? The public wants to see specifics on how these issues are to be addressed.

Other issues that we encourage CMS to consider in improving the safety and quality of American health care include:

- Require hospital readmission rates to be reported to the public.
- Develop and implement efficient validation methods to ensure that hospitals don't game the system by intentionally manipulating codes to avoid the consequences of harming patients.
- Develop methods to monitor and ensure that physicians are appropriately prescribing antibiotics – this long recognized problem that contributes greatly to antibiotic resistance has been ignored for too long. CMS should take the lead in identifying those situations where the inappropriate use of antibiotics is occurring and act to stop them.
- CMS should ensure that hospitals and other facilities are providing appropriate resources to code admissions correctly – so that accurate assessments of hospital patients' stays can be made.
- CMS should ensure that its processes in developing new measures and payment incentives are transparent to the public.

We hope in 2008 CMS will do more, faster, to reduce these unnecessary deaths and injuries. Please contact me if you have any questions about our comments.

Sincerely,

Lisa McGiffert  
Consumers Union  
Stop Hospital Infection Campaign  
506 West 14<sup>th</sup> Street, Suite A  
Austin, TX 78701  
[lmcgiffert@consumer.org](mailto:lmcgiffert@consumer.org)  
512-477-4431 ext 115  
512-477-8934 FAX