



Charles N. Kahn III  
President and CEO

July 28, 2025

The Honorable Dr. Mehmet Oz, M.D.  
Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

***Re: June 27, 2025 Information Collection on Review Choice Demonstration for Inpatient Rehabilitation Facility Services (CMS-10765 and OMB Control Number: 09381420)***

Dear Dr. Oz:

We appreciate the opportunity to provide comments to the Centers for Medicare and Medicaid Services (“CMS”) in response to the intention to collect information regarding the inpatient rehabilitation facility (“IRF”) Review Choice Demonstration (“RCD”).<sup>1</sup> The FAH is the national representative of nearly 1,000 leading tax-paying hospitals and health systems throughout the United States. FAH members provide patients and communities with access to high quality, affordable care in both urban and rural areas across 46 states, plus Washington, DC, and Puerto Rico. Our members include teaching, acute, inpatient rehabilitation, behavioral health, and long-term care hospitals and provide a wide range of inpatient, ambulatory, post-acute, emergency, children’s, and cancer services.

The FAH has communicated our concerns and objections to the IRF RCD on multiple occasions<sup>2</sup> and continue to urge CMS to eliminate this burdensome and unnecessary program. With average state-wide affirmation rates above 90%, the RCD in Alabama and Pennsylvania has shown that the expense of reviewing 100% of IRF claims is not justified.

As described in the new information collection, CMS plans to continue the demonstration requiring either 100 percent pre-claim or post-payment review for all IRF admissions in up to 17 states to identify and prevent potential fraud. The demonstration began in Alabama in August 2023 and has since expanded to Pennsylvania with implementation scheduled for Texas and California before eventually expanding further to cover a majority of the IRFs in the country in various Medicare Administrative Contractor (“MAC”) jurisdictions. The demonstration subjects

<sup>1</sup> Agency Information Collection Activities: Proposed Collection; Comment Request, 89 Fed. Reg. 102,149 (Dec. 17, 2024).

<sup>2</sup> [https://assets.fah.org/uploads/2021/04/IRF\\_RCD\\_Ltr\\_2\\_16\\_21\\_Final.pdf](https://assets.fah.org/uploads/2021/04/IRF_RCD_Ltr_2_16_21_Final.pdf) and [https://assets.fah.org/uploads/2021/10/FAH-Comment-Letter-to-CMS-on-RCD-Round-2-10\\_08\\_2021.pdf](https://assets.fah.org/uploads/2021/10/FAH-Comment-Letter-to-CMS-on-RCD-Round-2-10_08_2021.pdf) <https://assets.fah.org/uploads/2025/03/FAH-Comment-Letter-to-CMS-on-RCD-Roun-III-.pdf>

IRFs to 100 percent claim review until the IRF reaches a target affirmation or claim approval rate equal to 90 percent, at which time, the IRF could choose to be relieved from the demonstration review (except for a 5 percent spot check of their claims).

The FAH continues to believe that the IRF RCD is a vast overreach that is unwarranted, resulting in disincentives for and the denial of medically necessary IRF care. The FAH acknowledges and continues to support CMS' interest in ensuring program integrity and compliance with payment and coverage regulations under the Medicare IRF benefit, but we continue to have serious concerns regarding the significant burdens on the clinical and administrative staff at IRFs resulting from the IRF RCD implementation. CMS has predicated the IRF RCD on the pursuit of identifying fraud in Medicare's IRF benefit, yet after nearly two years, the RCD has produced no evidence of such fraud in the IRF Prospective Payment System that would justify this overly broad and burdensome RCD. With the stated goal of the program not being met, we urge CMS to suspend the IRF RCD and discontinue the program's planned expansion to other states.

While finding no cases of fraud, CMS data from July 1 to September 30, 2024, shows a program-wide affirmation rate of 91%. More recently, Novitas reported a 95.2% affirmation rate for Cycle 2 reviews in Pennsylvania from March 1 to May 31, 2025. Our understanding is that many of the non-affirmed cases are appealed. Given the high affirmation rates and lack of any fraudulent activity, we urge CMS to use more targeted, less burdensome methods than the RCD to clarify clinical coverage expectations for the IRF benefit.

We routinely hear from our members that the RCD is highly burdensome and is increasingly a barrier to timely and efficient care for Medicare beneficiaries requiring the intensive and coordinated rehabilitation and medical management provided in an IRF. The FAH believes that CMS has seriously underestimated both the costs of the original claim documents submission and the iterative nature of communications and resubmissions (in the case of non-affirmations) that are inevitable given the high number of claims being reviewed. Additionally, the costs associated with appealing denials through the first three levels of administrative appeal appear to have been completely omitted from CMS' burden estimates. The FAH believes that the IRF RCD continues to have the effect of prioritizing regulatory processes and provider burdens over the provision of actual clinical care to patients.

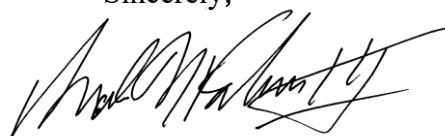
### **Discontinue the IRF RCD and Planned Expansion**

Given the tremendous amount of administrative burden placed on both providers and CMS to implement the IRF RCD to date, the lack of outright fraud that has been discovered, the exceedingly high affirmation rates across all providers in both Alabama and Pennsylvania nearly two years into the IRF RCD, and the historically high rate of overturn on appeal at the ALJ level, the FAH questions whether the continuation of the IRF RCD is worthwhile in accomplishing the goals it was intended to address. We continue to agree with the agency's desire to enhance program integrity to protect the Medicare Trust Fund but disagree that continuation and further expansion of the IRF RCD is an appropriate way to achieve that goal. We urge CMS to bring the IRF RCD to a close, or at the very least, pause the program and discontinue the expansion of the program to other states. We encourage CMS to consider alternative oversight approaches that balance program integrity with minimizing undue burdens on IRFs, rehabilitation physicians and their clinical rehabilitation teams, and protecting patient access to IRF care.

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The FAH appreciates the opportunity to comment on this IRF RCD information collection. The FAH stands ready to work with CMS on more appropriate ways to balance program integrity, provider burden, and patient access to care. If you have any questions, please contact me or Don May at 202-624-1500 or email at [DMay@fah.org](mailto:DMay@fah.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Don May", written in a cursive style.

cc: William N. Parham, III, Director, CMS