The Hospital + Healthsystem
Association of Pennsylvania

April 29, 2026

Richard Snyder, M.D.
Executive Vice President
Independence Blue Cross
1901 Market Street, 45th Floor
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Submitted via email: Richard.Snyder@ibx.com

Letter of Opposition re: IBX Policy MA00.023c – Hospital Readmissions

Dear Dr. Snyder:

On behalf of the Hospital and Healthsystem Association of Pennsylvania (HAP), representing more than 235 hospitals and health systems statewide, we write to express serious concern regarding Independence BlueCross (IBX) policy ***MA00.023c - Hospital Readmissions***, which addresses the treatment of hospital observation services and their relationship to inpatient payment determinations.

First, this policy was announced as a "revised reimbursement position" to IBX's existing Hospital Readmission policy for Medicare Advantage (MA) patients on April 1, 2026, to become effective May 1, 2026, though in fact it substantially changes the policy in effect. Additionally, one month is not enough time to implement such a significant change; you are now telling hospitals to realize outpatient services bundled retrospectively into inpatient services under a new, unrecognized hybrid payment scheme that deviates from both IPPS and OPPS payment logic.

As drafted, this policy is also inconsistent with federal Medicare policy, Pennsylvania law, and the foundational structure of the Inpatient Prospective Payment System (IPPS) and Outpatient Prospective Payment System (OPPS). MA00.023c newly introduces the retroactive bundling of outpatient services into inpatient services and threatens patient care by destabilizing observation as a legally compliant and clinically appropriate alternative to inpatient admission.

Therefore, we would like to bring to your attention the following salient points with regard to MA00.023c:

CMS has a clear position on hospital observation status
MA00.023c states that when "CMS does not have a position addressing a service, the Company may make policy decisions." The Centers for Medicare & Medicaid Services (CMS) has a clear position on observation services and has consistently defined observation services as outpatient hospital services, even when those services occur in inpatient units or extend overnight. 42 CFR

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§ 405.1210 provides just one example. IBX Policy MA00.023c departs from this framework by treating observation as a provisional status subject to retrospective inpatient payment logic, rather than as a legally recognized outpatient service.

Pennsylvania law distinguishes observation as an outpatient service
Beyond federal guidance, Pennsylvania law recognizes observation services as outpatient care. Act 160 of 2014 (P.L. 2633, No. 169) clarifies Pennsylvania's position on observation services as outpatient services. By codifying observation as outpatient, regardless of length of stay or hospital location, Act 169 confirms that patient status determination is legally meaningful at the time care is rendered, not a concept subject to later payer recharacterization.

This policy collapses OPPS into IPPS payment logic without authority to do so
IBX MA00.023c undermines the fundamental distinction between Medicare's two hospital payment systems: OPPS governs payment for observation services, emergency department services, and other outpatient hospital care; and IPPS applies to compliant inpatient admissions and pays based on MS-DRGs.

By retroactively bundling payment for outpatient observation services into inpatient services, this policy creates a new hybrid payment arrangement. Understanding that the reimbursement for observation will most likely result in $0, as they policy indicates the claim with the "higher payment will remain in place," the reimbursement concept is unauthorized and does not exist under CMS policy; and no statute, regulation, or CMS manual authorizes such a bundling. This concept also treats medically necessary, independent outpatient services as if they are included in the prior admission simply due to temporal proximity. Observation services involve distinct physician orders, nursing services, diagnostic care, and monitoring. Hospitals use observation to avoid unnecessary admissions while supporting patient access to care.

Retroactive bundling violates core payment and contracting principles
The retroactive bundling of observation services found in IBX MA00.023c generally violates basic principles of prospective payment and fair contracting. Hospitals must determine patient status, allocate resources, and deliver care in real time and based on clinical presentation. Retroactively denying or bundling payment for properly billed outpatient services undermines contractual certainty; distorts medical necessity determinations; penalizes compliance with CMS and state law; and shifts financial risk entirely to providers for decisions already made in good faith.

Payment rules that change after services are rendered are incompatible with lawful healthcare operations and established Medicare payment principles.

Readmission logic cannot be extended to observation in MA
Under traditional Medicare, observation services are explicitly excluded from 30-day readmission policies, including the Hospital Readmissions Reduction Program (HRRP). CMS defines a "readmission" for HRRP purposes as an unplanned inpatient admission occurring within 30 days of a prior inpatient discharge. Because observation stays *are outpatient services*, they cannot serve as either index admissions or readmissions under HRRP. This qualification is codified in 42 C.F.R. § 412.152, which restricts HRRP measurement and payment effects to inpatient discharges paid under IPPS. CMS guidance and rulemaking repeatedly confirm that returns to the hospital for emergency department or observation services are not counted as readmissions, even when they occur within 30 days of an inpatient stay. By applying inpatient-style financial consequences to outpatient observation services, IBX policy MA00.023c departs from Medicare standards on which Medicare Advantage products must be based. This policy will effectively result in MA patients receiving less coverage than their traditional Medicare counterparts. Characterizing these decisions as "payment policy" does not change their effect: the denial of a Medicare-covered service. CMS has also made clear that post-hoc payment reviews cannot function as de facto coverage exclusions.

This policy will harm patient care by undermining observation as a safe alternative
Finally, IBX MA00.023 threatens patient care by destabilizing observation as a clinically appropriate alternative to inpatient admission. Hospitals already operate under strict inpatient admission criteria, extensive utilization review and audit scrutiny, and significant payment risk for admissions deemed inappropriate.

Observation serves as a necessary and patient-centered service, allowing providers to safely evaluate patients without triggering unnecessary inpatient admissions. Financially penalizing observation forces hospitals toward inappropriate inpatient admissions or discourages observation entirely—both outcomes that increase regulatory risk and undermine patient-centered care.

For these reasons, we respectfully request that IBX withdraw this policy. If that is not possible, in the alternative we ask that you substantially revise IBX policy *MA00.023c Hospital Readmissions* to align the use of observation services with CMS's outpatient framework for Medicare Advantage patients. Further, going forward we ask that IBX preserve the structural separation between IPPS and OPPS and reconsider retroactively bundling outpatient services into inpatient admissions.

As always, we urge IBX to engage hospitals in meaningful dialogue before issuing and enforcing new policies, particularly for those that materially alter legally recognized patient status determinations and care delivery.

Respectfully,

Jolene H. Calla

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Vice President, Finance and Legal Affairs

Cc: Mehmet Oz, Administrator, Centers for Medicare and Medicaid Services
Michael Humphreys, Commissioner, Pennsylvania Insurance Department