

March 11, 2016

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Paul Ryan
Speaker of the House of Representatives
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Harry Reid
Minority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Leader McConnell, Leader Reid, Speaker Ryan and Leader Pelosi:

We are writing to express our strong concern with the Centers for Medicare & Medicaid Services' (CMS) March 8, 2016 proposed rule that would implement a new "Medicare Part B Payment Model." We believe that this type of initiative, implemented without sufficient stakeholder input, will adversely affect the care and treatment of Medicare patients with complex conditions, such as cancer, macular degeneration, hypertension, rheumatoid arthritis, and primary immunodeficiency diseases. We previously sent a letter to Department of Health and Human Services (HHS) Secretary Sylvia Burwell asking her not to move forward with this type of initiative, and we now respectfully request that you ask CMS to withdraw the proposed rule.

Medicare beneficiaries – representing some of the nation's oldest and sickest patients – must often try multiple prescription drugs and/or biologics before finding the appropriate treatment for their complex conditions. These patients need immediate access to the right medication, which is already complicated by the fact that treatment decisions may change on a frequent basis. These vulnerable Medicare patients and the providers who care for them already face significant complexities in their care and treatment options, and they should not face mandatory participation in an initiative that may force them to switch from their most appropriate treatment.

A Center for Medicare & Medicaid Innovation (CMMI) initiative that focuses on costs rather than patients and health care quality, implemented based on primary care service areas, rather than the unique challenges of patients, is misguided and ill-considered. Medicare beneficiaries with life-threatening and/or disabling conditions would be forced to navigate a CMS initiative that could potentially lead to an abrupt halt in their treatment. This is not the right way to manage the Medicare program for its beneficiaries.

As CMS contemplates payment and delivery system reforms, there is a critical need for transparent, comprehensive communications with stakeholders throughout the process. We were deeply disappointed that CMS only provided a limited opportunity for stakeholder input before announcing sweeping proposed changes to Medicare Part B drug payments. In doing so, the agency largely failed to consider stakeholder concerns that the initiative could adversely impact patients' access to life-saving and life-changing Medicare Part B covered drugs.

We believe these types of initiatives should be initially implemented in a targeted, patient-centered and transparent way that accounts for the unique needs of Medicare beneficiaries. In fact, CMMI is

statutorily required to ensure that its initiatives target “deficits in care,” and can only expand the scope and duration of a model after careful assessment of the model’s impact on quality of care, patient access, and spending. We are very deeply concerned, therefore, that CMS’ proposed Part B Model would be applied on a nationwide basis – to all states except Maryland, due to its all-payer model – and would include the “majority” of Part B drugs. Furthermore, given the success of the current Part B reimbursement methodology in ensuring patient access to the most appropriate treatments, it is unclear what “deficits in care” CMS is attempting to address in this incredibly wide-ranging initiative.

In the proposed rule, CMS expresses concern that the 6% ASP add-on payment “may encourage the use of more expensive drugs because the 6 percent add-on generates more revenue for more expensive drug.” This assumption fails to take into account the fact that providers’ prescribing decisions depend on a variety of factors, including clinical characteristics and the complex needs of the Medicare population. Most importantly, there is no evidence indicating that the payment changes contemplated by the model will improve quality of care, and may adversely impact those patients that lose access to their most appropriate treatments. In fact, data suggests that the current Part B drug payment system has been both cost effective and successful in ensuring patient access to their most appropriate treatment, as Part B expenditures remain relatively stable¹ and Part B drugs account for just 3% of total program costs.²

Finally, it is important to understand that with the Budget Control Act, CMS has already cut Medicare reimbursement for physician-administered drugs by 2%, further impacting some providers’ ability to administer essential drugs at the current reimbursement rate. It is imperative CMS acknowledges and evaluates the impact of the current, real payment rate and engages multiple stakeholders, starting with patients and providers, before implementing a new, severe reimbursement cut that is effectively ASP + 0.86% (plus a small flat fee). In closing, we urge you to ensure that our nation’s oldest and sickest patients continue to be able to access their most appropriate drugs and services. We therefore request that you ask CMS to permanently withdraw the Part B Drug Payment Model from consideration.

Sincerely,

cc: The Honorable Orrin Hatch
Chairman
Committee on Finance
U.S. Senate

The Honorable Ron Wyden
Ranking Member
Committee on Finance
U.S. Senate

¹ 2015 Medicare Trustees Report.

² Medicare Payment Advisory Commission, “Medicare Drug Spending;” presentation at September 2015 public meeting; available at: <http://www.medpac.gov/documents/september-2015-meeting-presentation-medicare-drug-spending.pdf?sfvrsn=0>.

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
U.S. House of Representatives

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives

The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives