



United States Senate

WASHINGTON, DC 20510-0905

April 18, 2016

The Honorable Andy Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Ave., S.W.
Washington, D.C. 20201

Dear Acting Administrator Slavitt:

We are writing to express our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) proposal to impose mandatory home health prior authorization demonstration in the following five states: Florida, Illinois, Massachusetts, Michigan, and Texas. We commend CMS for its desire to strengthen the integrity of the Medicare program, but have heard from stakeholders who believe that the demonstration's sweeping approach fails to adequately target bad actors and may restrict beneficiary access to timely services.

Under your proposal, home health agencies would have to submit a request for prior authorization to CMS before providing patient services. Prior authorization can be a useful tool to combat unnecessary utilization and identify improper payments when used appropriately. However, imposing prior authorization for home health services would only increase the time seniors and other Medicare beneficiaries would have to wait to receive the care they need.

Home health is a critical service for seniors and people with disabilities that helps them stay in their home and communities for longer. The Medicare home health benefit enables beneficiaries to receive medically necessary services at home, in a cost-effective setting, while also preventing costly hospital readmissions. Approximately 3.5 million of the Medicare's most vulnerable beneficiaries depend on home healthcare services. These patients are typically older, of lower socioeconomic status, and more likely to be disabled, a minority, or female than all other Medicare populations.

If finalized, this proposal could delay the delivery of care and place already vulnerable patients at risk. Patients who would otherwise receive care at home may need to seek care in more costly settings or return to hospitals. Beyond ensuring that these patients receive timely care, we should also consider that many patients prefer to remain in the comforts of their home.

With the goal of helping seniors and people with disabilities age in their homes and communities, we urge you to consider the impact that this demonstration could have on patient care and outcomes.

Thanks for your attention to this matter. We look forward to hearing from you.

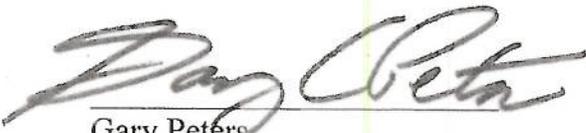
Sincerely,



Bill Nelson
United States Senator



Debbie Stabenow
United States Senator



Gary Peters
United States Senator



Marco Rubio
United States Senator



Richard J. Durbin
United States Senator



Mark Kirk
United States Senator



MAY 25 2016

Administrator
Washington, DC 20201

The Honorable Mark Kirk
United States Senate
Washington, DC 20510

Dear Senator Kirk:

Thank you for your letter regarding the potential for a Medicare home health services prior authorization demonstration. We agree that these types of demonstrations can be an important tool to protect the integrity of the Medicare program and the trust funds.

There have been high incidences of fraud and high improper payment rates for home health services over the past several years. Based on our previous experience, the Department of Health and Human Services (HHS) Office of Inspector General reports, Government Accountability Office reports, and Medicare Payment Advisory Commission findings, there is extensive evidence of fraud and abuse in the Medicare home health program. In addition, the improper payment rate for home health services increased from 17.3 percent in 2013 to 51.4 percent in 2014. The Fiscal Year 2015 HHS Agency Financial Report reported a further increase to 59 percent in 2015.

A Paperwork Reduction Act (PRA) notice appeared in the Federal Register on February 5, 2016 indicating that, in accordance with statutory authority to “develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services,”¹ the Centers for Medicare & Medicaid Services (CMS) is seeking to develop and implement a Medicare demonstration project for home health. The PRA notice was not an announcement of a demonstration for home health services, and as such, did not include detailed information about how such a potential demonstration would work.

In response to the PRA notice, stakeholders have expressed concerns regarding beneficiary access to timely services. As we develop a demonstration for home health services, we are working to make sure that beneficiaries will not experience a delay in the start of their home health services. We are using our experience with the Prior Authorization of Power Mobility Devices Demonstration as we work to ensure access to care. CMS anticipates announcing details related to a demonstration under which documentation for home health services would be reviewed prior to submission of claims through a future Federal Register notice and additional educational materials.

During the course of the demonstration, as well as when it concludes, CMS would monitor and analyze data to evaluate the impact of the demonstration on fraud and improper payments in the demonstration states and may consider if a more focused risk-based approach to prior

¹ Section 402(a)(1)(J) of the Social Security Amendments of 1967 (42 U.S.C. 1395b-1(a)(1)(J)).

authorization is warranted in the future. We believe a demonstration will help assist in developing improved procedures for the identification, investigation, and prosecution of Medicare fraud occurring among home health agencies providing services to Medicare beneficiaries, while making sure eligible beneficiaries receive timely care in their homes, and preserving and protecting the Medicare Trust Funds for all Medicare beneficiaries. I will also provide this response to the co-signers of your letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew Slavitt".

Andrew M. Slavitt
Acting Administrator