

Congress of the United States
Washington, DC 20515

March 15, 2013

Marilyn Tavenner
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Ms. Tavenner:

We are concerned about the cumulative negative impact of provisions contained in the 45 Day Notice and draft Call Letter. First, proposed changes in risk adjustment will disadvantage vulnerable beneficiaries with multiple chronic conditions. Medicare Advantage (MA) plans have a proven track record when it comes to coordinating care for chronically ill individuals and this proposal will reduce their ability to continue to do so. Second, CMS' proposal with respect to the star ratings would lead to unwarranted downward shifts in the ratings. Third, CMS continues the illogical policy of assuming the scheduled 25 percent reduction in the Medicare physician fee schedule (SGR) will be implemented on January 1, 2014.

The assumption on the SGR is particularly problematic because it almost certainly will turn out to be wrong and it directly translates into lower funding to support the health benefits of the 14 million Medicare beneficiaries who currently are enrolled in MA plans. The combined effects of the Affordable Care Act (ACA) and the new payment cuts proposed by CMS in its 45 Day Notice are estimated to result in a 6.9 to 7.8 percent cut to Medicare Advantage plans in 2014. Those cuts could translate into benefit reductions and premium increases of \$50 to \$90 per month for each MA enrollee next year. This reduction in funding will leave many vulnerable seniors with fewer benefits, higher out-of-pocket costs, and in some cases the loss of their current MA coverage.

Considering these cumulative impacts, we urge you to use your authority under Sections 1853(c)(6) and 1876(a)(4) of the Social Security Act to calculate Medicare Advantage (MA) rates for 2014 based on an assumption that legislation will be enacted later this year to maintain Medicare physician payment rates at their current levels in 2014, without any reduction. CMS requires that plan sponsors incorporate likely SGR legislative fixes in their bids. It makes no sense that plans should have to incorporate this assumption while CMS does not.

Over the past decade, Congress repeatedly has approved Medicare physician payment “fixes” to block similar reductions from taking effect. These bills consistently have been passed with strong bipartisan support and we are confident that such legislation will be passed again in the 2013 session. In fact, there is growing momentum in Congress for passing legislation this year to achieve a permanent “fix” for the Medicare physician payment system.

Having closely examined the relevant statutory provisions of the Social Security Act, we believe it is abundantly clear that Sections 1853(c)(6) and 1876(a)(4) require CMS to develop “estimates” of the projected growth rate in Medicare expenditures and applicable county-specific fee-for-service costs that serve as the basis for MA rates and would permit the agency to rely on the best available information. These statutory provisions grant CMS a significant degree of flexibility in determining how to calculate estimated rates for MA payments. Based on our analysis of these provisions, we believe you have authority under current law to calculate 2014 MA rates based on an assumption that a Medicare physician payment “fix” will be enacted later this year.

The SGR assumption, in addition to the changes in risk adjustment and the star ratings, will have significant, negative impacts on the MA program. We urge you to use your administrative discretion to fix these problems that will, ultimately, only penalize beneficiaries. Thank for your attention to this important issue. We look forward to hearing from you regarding your decision.

Sincerely,

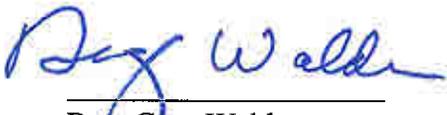

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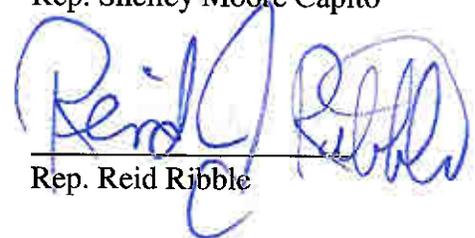

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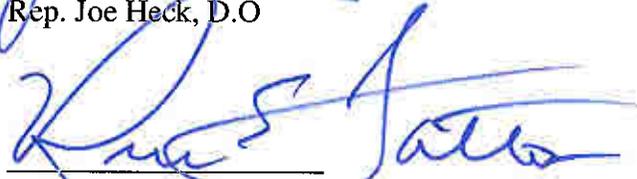

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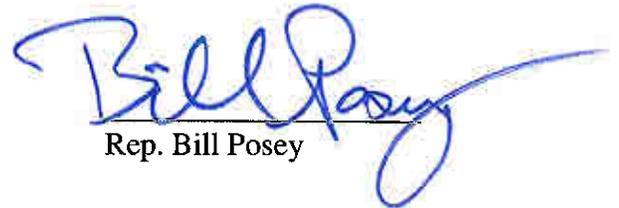

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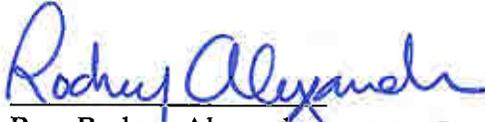

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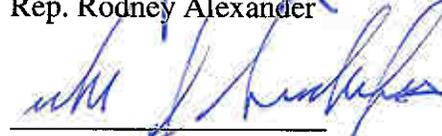

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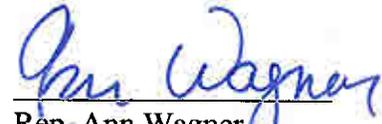

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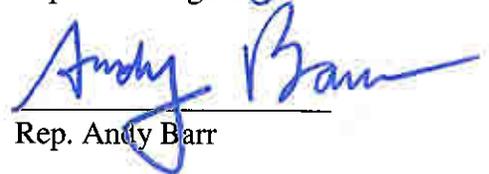

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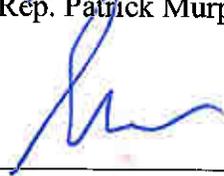
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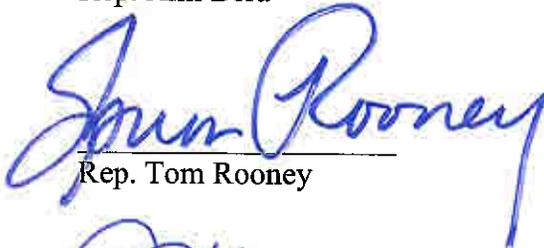
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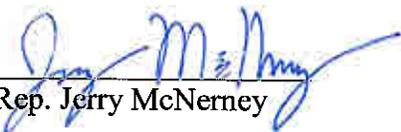
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