



Administrator
Washington, DC 20201

MAY 09 2013

The Honorable Tom Price
U.S. House of Representatives
Washington, DC 20515

Dear Representative Price:

Thank you for your letter regarding the Centers for Medicare & Medicaid Services' (CMS) Advance Notice of Methodological Changes for Calendar Year (CY) 2014 for Medicare Advantage (MA) Capitation Rates, Part C and D Payment Policies (Advance Notice), and the 2014 draft Call Letter released on February 15, 2013.

On April 1, 2013, CMS released the Announcement of Methodological Changes for CY 2014 for Medicare Advantage Capitation Rates, Part C and Part D Payment Policies (Final Rate Notice), and the 2014 Final Call Letter. As we stated in the Advance Notice, we recognize that plans face several legislatively mandated changes affecting payment for 2014. As such, we solicited comments on suggestions to address these challenges within the parameters of current law.

With respect to the issues you would like CMS to consider, allow me to respond to each in turn based on our policies for 2014:

Risk Adjustment Model Changes – You also expressed concerns about the proposed risk adjustment model changes and noted that these changes will impact plans that treat beneficiaries with multiple chronic conditions. The risk adjustment model proposed for 2014 includes important clinical updates, as well changes to address differences in coding between MA plans and fee-for-service Medicare. I appreciate, however, the concern you have raised regarding these risk adjustment changes being implemented at the same time as other program changes and we took these concerns into consideration as we finalized the policy for 2014.

In the Final Rate Announcement, we announced that we will implement the updated, clinically revised CMS-HCC risk adjustment model proposed in the Advance Notice with the following differences: (1) we will not apply a budget neutrality adjustment and (2) we will blend the risk scores calculated using this model with the risk scores calculated using the 2013 CMS-HCC model, weighting the risk scores from the 2013 CMS-HCC model by 25 percent and the risk scores from the 2014 CMS-HCC model by 75 percent. We finalized this approach to mitigate the changes in risk scores faced by individual MA organizations.

Five-Star Rating System – You expressed concern regarding the proposed changes in the five-star rating system. CMS solicited comments on the proposed calculation changes to Star Ratings in the draft Call Letter. Currently, a plan's summary rating is calculated by averaging the individual measures' *stars* (1, 2, 3, 4, or 5 stars) rather than the underlying *scores* that plans

achieve on each of the measures. Averaging *stars* rather than underlying *scores* (actual performance) results in a loss of information about differences between plans and increases the risk of misclassifying the plan in the summary rating. The proposed method for computing the overall/summary ratings averages using the underlying measures' *scores* would improve the correspondence between a plan's true performance in measures and its summary rating. Plans responded by requesting clarification on the calculation and a delay in implementation of the proposed changes to calculate the summary rating. In response to comments, CMS intends to delay the implementation of this change. Instead, we will conduct additional research regarding this calculation and will provide plans with advance notice of any potential changes.

Physician Payment Assumption – You note that payment rates to MA plans would be artificially low because CMS assumed in the Advance Notice that the scheduled physician payment cut under the sustainable growth rate formula (SGR) will occur in 2014. You have also asked CMS to use our authority to assume that the physician payment cut will not occur when setting the MA rates for 2014.


The Social Security Act requires that the national MA growth percentage reflect the Secretary's estimate of the projected per capita rate of growth in expenditures "under this title" (Title XVIII). CMS historically has responded to comments urging CMS to assume a legislative SGR fix by indicating that we interpreted the use of the phrase "under this title" to mean that the estimate was to be based on the provisions of Title XVIII as in effect on the date that the rates are announced.

Given the increasing number of years in a row for which Congress has enacted an SGR fix after the MA rates for the upcoming year have been released in April, CMS agrees that it would be more reasonable to instead interpret the phrase "under this title" as a general reference to the nature of the expenditures, namely expenditures from the Part A and Part B trust funds, rather than necessarily interpreting the phrase to incorporate current provisions of law into CMS's best estimate of the extent to which Medicare expenditures are actually expected to change.

Accordingly, we changed our interpretation of how we calculate the estimate of projected per capita rate of growth under this title under section 1853(c)(6)(A) of the Social Security Act from an estimate of what *would occur* to the physician fee schedule for the following year under current law to a best estimate of what CMS believes *actually will* occur to the physician fee schedule for the following year based on recent history, and we revised the growth rate to assume a zero percent change for the physician fee schedule for 2014. We made this change to reflect the fact that Congress has annually changed the law every year since 2003, such that the projected SGR cut does not occur. CMS believes it is more reasonable to base the estimate of projected growth in Medicare expenditures on the assumption that a fix will occur than it would be to base the estimate on current law. The final MA Growth Percentage and the FFS Growth Percentage are calculated based on the assumption of a zero percent change for the physician fee schedule for 2014. Details on the growth percentages are contained in Attachment I of the Final Rate Announcement.

Thank you for your interest in the Advance Notice and Call Letter. We look forward to working together with you to maintain a strong MA program so that our nation's Medicare beneficiaries can continue to have a wide range of quality plan choices. I will also provide this response to the co-signers of your letter.

Sincerely,

A handwritten signature in black ink that reads "Marilyn Tavenner". The signature is written in a cursive style with a large, sweeping flourish at the end.

Marilyn Tavenner
Acting Administrator

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,

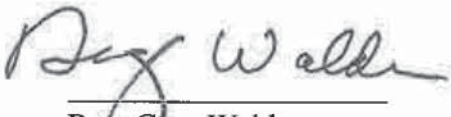

Rep. Bill Cassidy, M.D.


Rep. John Barrow


Rep. Marsha Blackburn


Rep. Ron Kind


Rep. Tim Murphy


Rep. Greg Walden


Rep. Kevin Cramer


Rep. Brett Guthrie

Diane Black

Rep. Diane Black

Larry Bucshon

Rep. Larry Bucshon, M.D.

Leonard Lance

Rep. Leonard Lance

Bill Shuster

Rep. Bill Shuster

Bill Johnson

Rep. Bill Johnson

Steve Scalise

Rep. Steve Scalise

Tim Walberg

Rep. Tim Walberg

David B. McKinley

Rep. David McKinley

Jim Renacci

Rep. Jim Renacci

Bob Gibbs

Rep. Bob Gibbs

Joseph Pitts

Rep. Joseph Pitts

Erik Paulsen

Rep. Erik Paulsen

Jon Ruyhan

Rep. Jon Ruyhan

Scott DesJarlais, M.D.

Charlie Dent

Rep. Charlie Dent

Gus Bilirakis

Rep. Gus Bilirakis

Sam Graves

Rep. Sam Graves

Adam Smith

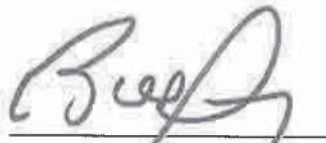
Rep. Adam Smith

Patrick Tiberi


Rep. Patrick Tiberi

Matt Salmon

Rep. Matt Salmon


Rep. C.W. Bill Young



Rep. Peter Roskam


Rep. Charles Boustany, M.D.



Rep. Tom Marino


Rep. Adam Kinzinger


Rep. John Kline


Rep. Mike Rogers


Rep. Billy Long



Rep. Phil Roe, M.D.


Rep. Pat Meehan

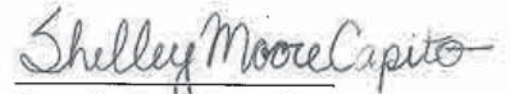

Rep. Jim Matheson



Rep. Aaron Schock

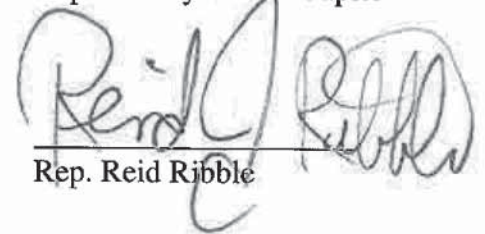

Rep. Lou Barletta



Rep. Steve Stivers


Rep. Pedro Pierluisi

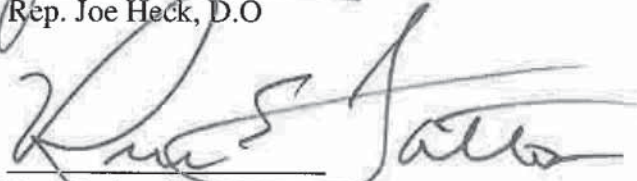

Rep. Shelley Moore Capito


Rep. Pete Olson

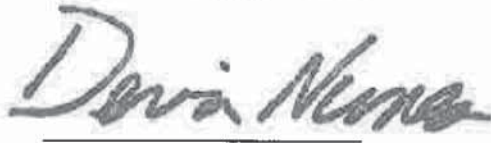

Rep. Reid Ribble


Rep. Joe Heck, D.O


Rep. Rich Nugent

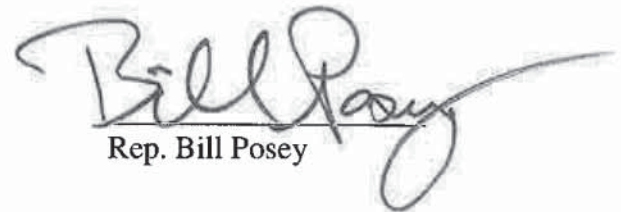

Rep. Robert Latta


Rep. Mike Kelly

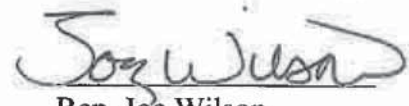

Rep. Devin Nunes

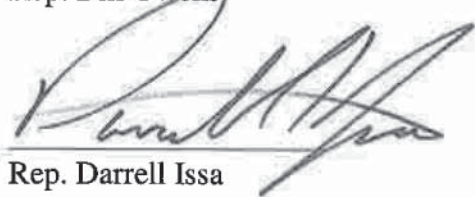

Rep. Walter Jones

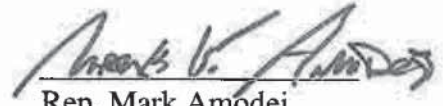

Rep. Ron Barber


Rep. Bill Posey


Rep. Bill Owens

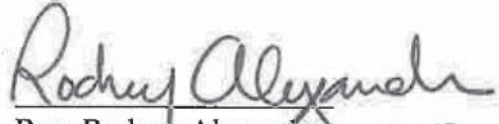

Rep. Joe Wilson


Rep. Darrell Issa

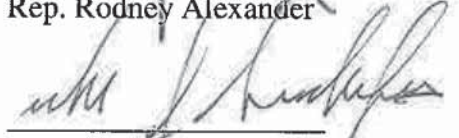

Rep. Mark Amodei

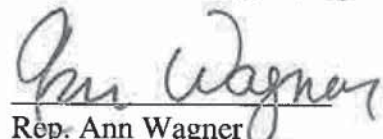

Rep. Renee Ellmers


Rep. Chris Gibson

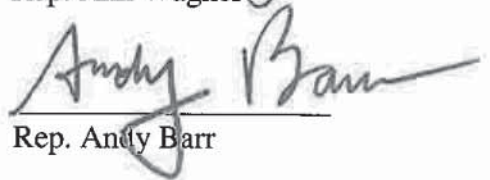

Rep. Rodney Alexander


Rep. Michael Burgess, M.D.


Rep. Keith Rothfus


Rep. Ann Wagner


Rep. Collin Peterson


Rep. Andy Barr



Rep. Vern Buchanan



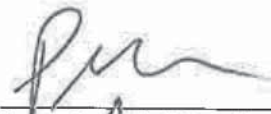
Rep. H. Morgan Griffith



Rep. Kurt Schrader



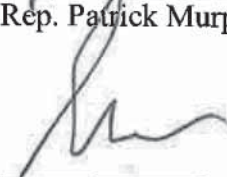
Rep. Jim Costa



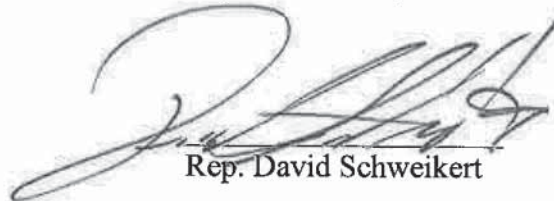
Rep. Patrick Murphy



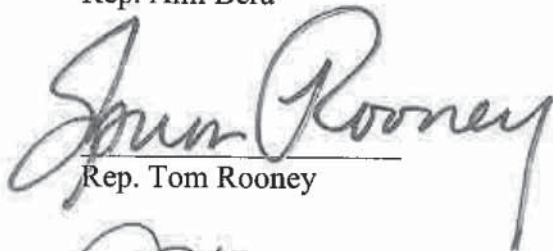
Rep. Paul Gosar, D.D.S



Rep. Ami Bera



Rep. David Schweikert



Rep. Tom Rooney



Rep. Greg Harper



Rep. Richard Hanna



Rep. Ed Royce



Rep. Jerry McNerney



Rep. Tim Griffin



Rep. Dennis Ross



Rep. Michael Grimm



Rep. Tim Walz



Rep. Jeff Denham

Lynn Jenkins
Rep. Lynn Jenkins

Alan Nunnelee
Rep. Alan Nunnelee

J. Randy Forbes
Rep. J. Randy Forbes

Steve Chabot
Rep. Steve Chabot

Ralph M. Hall
Rep. Ralph Hall

Joe Barton

Denny Heck

SB

Sh S. McILIS
Jeff

Pubby Dist

#031820134003

Lynn Jenkins
Rep. Lynn Jenkins

Alan Nunnelee
Rep. Alan Nunnelee

J. Randy Forbes
Rep. J. Randy Forbes

Steve Chabot
Rep. Steve Chabot

Ralph M. Hall
Rep. Ralph Hall

Joe Barton Joe Barton

Denny Heck Denny Heck

Scott Peters Scott Peters

John Shimkus John Shimkus

Rodney Davis Rodney Davis

Jeff Duncan Jeff Duncan

Eric Swalwell Eric Swalwell

Gloria Negrete McLeod
Gloria Negrete McLeod

Thomas Price
Thomas Price

