

United States Senate
WASHINGTON, DC 20510

June 13, 2005

Dr. Mark McClellan
Administrator
Centers for Medicare and Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Dr. McClellan:

We are writing in regards to the so-called "75 Percent Rule" applicable to inpatient rehabilitation hospitals and units. In light of the unforeseen effect the rule is having on inpatient rehabilitation providers and their patients, we believe a prudent, workable approach to appropriately address this matter would be to maintain and enforce the rule at its current threshold level of 50 percent for one additional year.

It is our understanding that multiple independent data sources indicate that the impact of the 75 Percent Rule is considerably greater than what the Centers for Medicare and Medicaid Services projected when the rule was issued last year. If current trends continue, it is estimated that the number of Medicare beneficiaries who will not receive inpatient rehabilitative care during FY05 will approach 40,000, yielding an estimated \$200 million to the Medicare program—substantially greater than the comparatively modest \$10 million in savings that was initially projected.

We are concerned that the rule's unexpected effects will become all the more heightened if it escalates to its next scheduled phase of 60 percent later this summer, thereby potentially jeopardizing sufficient access to medically necessary rehabilitative care and services. Keeping the rule effective at its current level of 50 percent for one additional year would permit a window of time during which the rule's policy effects could be further evaluated. It would also permit an opportunity for research and studies to be conducted, the results of which could be used to refine the rule, consistent with the recommendations of the recent report issued by the Government Accountability Office.

Thank you for your careful consideration of our views in this important matter. As members of the U.S. Senate Committee on Finance, we look forward to your response.

Sincerely,

Mike Cryor Rick Soutum

Jon Kyl

Jim Bunning

Chris Hatch

Ch. Sten

Allyson Swann
