

**Congress of the United States**  
**Washington, DC 20515**

May 25, 2016

Sylvia Mathews Burwell  
Secretary  
Department of Health and Human Services  
Room 120F  
Hubert H. Humphrey Building  
200 Independence Avenue, SW  
Washington, DC 20201

Andrew M. Slavitt  
Administrator (Acting)  
Centers for Medicare and Medicaid Services  
Room 310G  
Hubert H. Humphrey Building  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Burwell and Acting Administrator Slavitt:

Home health is a critical service for seniors and people with disabilities that allows them to stay in their home and remain active in the community. The Centers for Medicare and Medicaid Services (CMS) recently issued in its Paperwork Reduction Act Federal Register Notice (PRA Notice) a potential mandatory prior authorization for home health as a demonstration in five states.<sup>1</sup> The Medicare home health benefit allows beneficiaries to receive medically necessary services at home, in the least costly setting, and can support improved care transitions that help to prevent expensive hospital readmissions. Prior authorization has never been applied to post-acute care within fee-for-service Medicare. We encourage you to refrain from moving forward with the proposed demonstration project in order to avoid delays or a disruption in patient care and prevent restrictions on patient access to home health services.

We are concerned that a demonstration project centered on prior approval or “prior authorization” of home healthcare would interfere with the patient-doctor relationship and is in conflict with the policy goal of moving toward patient-centered care. Stated simply, prior authorization of home healthcare imposes a requirement that prevents a patient from receiving home health services after the physician orders home healthcare unless and until an intermediary has reviewed and approved the order.

Under the proposal, a home health agency would be penalized if it attempted to proceed and care for a patient without delay. Under the proposed demonstration, a home health agency that provides care without prior authorization would be penalized with a 25 percent payment reduction, even if the claim were approved as appropriate and payable.<sup>2</sup>

We are most concerned with the potential impact of a prior authorization demonstration on access to

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<sup>1</sup> The proposed demonstration is described in the Paperwork Reduction Act notice in the Federal Register from February 5, 2016. The five states captured by the demonstration include Florida, Texas, Illinois, Michigan and Massachusetts.

<sup>2</sup> *Supporting Statement Part A – Medicare Prior Authorization of Home Health Services Demonstration*,” CMS-10599 (Feb. 5, 2016), retrieved from: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/Downloads/CMS-10599.zip>

care. Requiring prior approval for every home health patient across five states for critically important services that keep people in their homes rather than institutions, often when they are at their most medically vulnerable, will effectively delay and deny home health coverage for countless Medicare beneficiaries. Under this demonstration project, CMS would have to review more than 900,000 claims each year before each patient could receive care. Today, approximately 3.5 million of Medicare's most vulnerable beneficiaries depend on home healthcare services. These patients are often elderly, low income patients with serious illnesses, who are more likely to be disabled, a minority, or female than all other Medicare populations combined.<sup>3</sup> An unwarranted disruption and delay in patient care will put the oldest and frailest Medicare beneficiaries at greatest risk.

This demonstration project could limit access to home health services, while generating longer and costlier hospital stays and potentially increasing readmission rates. Many patients find themselves in the most clinically fragile condition during the week following a hospital discharge. It is vitally important that we continue to meet the care needs of Medicare patients during this critical transition time post-hospital discharge.<sup>4</sup>

We are also concerned about what a prior authorization proposal will mean to the taxpayer. CMS estimates that administrating this demonstration project would cost taxpayers more than a quarter of a billion dollars.<sup>5</sup> CMS aims to reduce fraud and improper payments within home health agency claims; however, it is unclear to what extent this proposal would actually prevent fraud and the submission of faulty paperwork or claims. Rather than a more focused approach targeting bad actors, this proposal will put a tremendous administrative burden on agencies with absolutely no track record of fraud. Physicians and home health agencies are already required to provide significant documentation for each patient in order to demonstrate a clinical need for home health services. A prior authorization demonstration as proposed would add an increased administrative burden on both physicians and home health agencies, while likely adding little value for identifying and preventing fraud. Further, prior authorization would be a duplicative process as CMS already reviews claims on a pre-payment basis.

Finally, we are concerned about the authority stated by CMS in pursuing prior authorization for home health services. The authority cited in the rule for implementing the program gives the Secretary authority "to develop or demonstrate improved methods for the *investigation and prosecution of fraud* in the provision of care or services under the health programs established by this chapter (emphasis added)."<sup>6</sup> The proposal to screen every home health service through a prior authorization process for the five identified states, however, tests a method of screening and utilization management, not a

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<sup>3</sup> Avalere Health, *Medicare Beneficiary Analysis: Key Differentiating Characteristics of Medicare Home Health Beneficiaries*. March 2014 <http://homehealth4america.org/media-center/attach/207-1.pdf>

<sup>4</sup> Medicare certified home health agencies are required in the conditions of participation to conduct the initial assessment visit "either within 48 hours of referral, or within 48 hours of the patient's return home, or on the physician-ordered start of care date." A prior authorization process could delay care for as long as 10 to 20 days, directly counter to CMS's regulation. Additionally, CMS created a home health performance measure for timely initiation of care that measures the "percentage of home health episodes of care in which the start or resumption of care date was either on the physician-specified date or within 2 days of the referral date or inpatient discharge date whichever is later." This National Quality Forum (NQF) endorsed measure has also been included on the Home Health Compare website. Thus, a prior authorization process for home health care would be inconsistent with CMS's measure of quality in home health care.

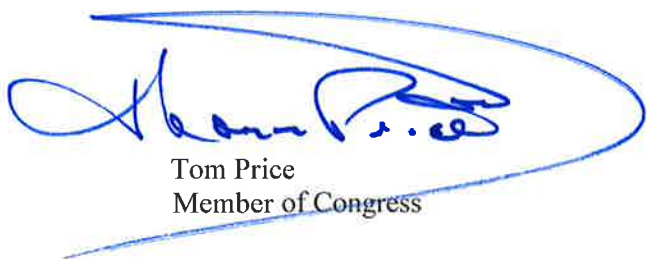
<sup>5</sup> CMS estimates that the costs associated with performing prior authorization for home health services would be approximately \$223 million in Phase I and an additional \$71.4 million in Phase II over the 3-year demonstration period for just five states. Future expansion of this rule to all 50 states would cause the costs to escalate dramatically.

<sup>6</sup> 42 U.S.C. Section 1395b-1(a)(1)(J)

method for investigation or prosecution of fraud. Apart from the question of authority, the PRA Notice is insufficient from an administrative perspective to promulgate such a wide-reaching program. A full notice and comment rulemaking process, allowing stakeholders to comment with specificity on the details of a proposed demonstration project, would be required.

This demonstration project imposes costs on patients, providers and taxpayers. Delaying patient care while waiting for CMS to approve home health services may put patient health in jeopardy and cause patients to stay in the hospital longer than necessary. We ask you to withdraw the proposed demonstration for prior authorization of home health services in order to avoid health risks to patients, delays or disruptions in patient care and unnecessary restrictions on patient access to home health services.

Sincerely,



Tom Price  
Member of Congress



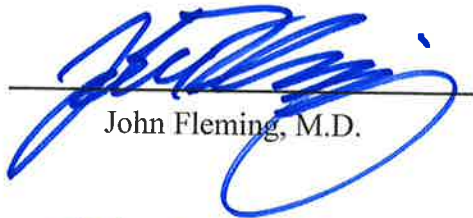
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Member of Congress


  
Charles W. Boustany, Jr. M.D.

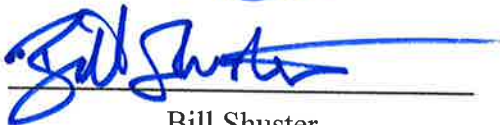
  
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Corrine Brown

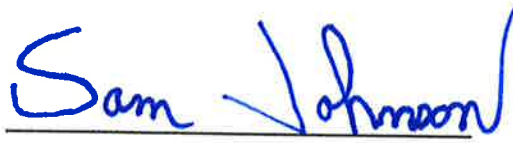
  
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John Fleming, M.D.

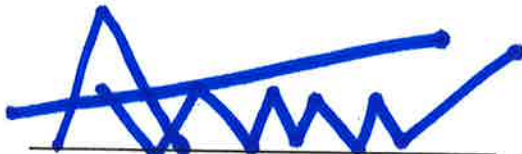
  
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Darrell Issa


  
Sam Johnson

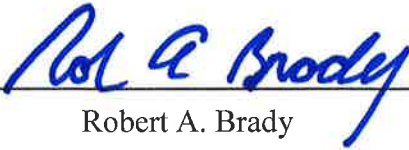
  
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Lou Barletta

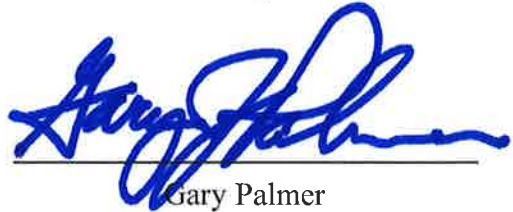
  
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Michael T. McCaul

  
Ann Kirkpatrick

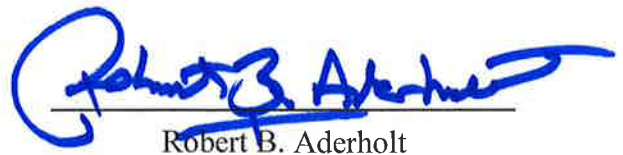
  
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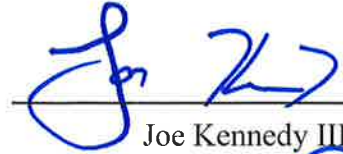
  
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Scott Tipton

  
Robert B. Aderholt



Cedric Richmond



Joe Kennedy III



William Keating



Brian Babin



John Ratcliffe



Richard E. Neal



David 'Phil' Roe, M.D.



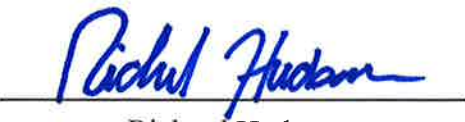
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David McKinley



Ralph Abraham, M.D.



Richard Hudson



Patrick Meehan



Mike Pompeo



Glenn Grothman

Rick W. Allen

Rick Allen

Larry Bucshon

Larry Bucshon, M.D.

Kevin Cramer

Kevin Cramer

H. Morgan Griffith

H. Morgan Griffith

Jason Smith

Jason Smith

Steve Womack

Steve Womack

Sam Farr

Sam Farr

Diane Black

Diane Black

Terri Sewell

Terri A. Sewell

Scott Perry

Scott Perry

French Hill

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Mo Brooks

Mo Brooks

Randy Neugebauer

Randy Neugebauer

Mike Kelly

Mike Kelly

Lynn Jenkins  
Lynn Jenkins, C.P.A.

Andy Harris, M.D.  
Andy Harris, M.D.

Rick Crawford  
Rick Crawford

Katherine M. Clark  
Katherine Clark

Richard Nugent  
Richard Nugent

David Jolly  
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Rodney Davis  
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Vern Buchanan  
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Pete Olson  
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Lynn Westmoreland  
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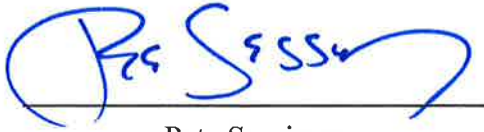
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Steve King  
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Charles Dent  
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Pete Sessions



Vicky Hartzler




Louie Gohmert



Betty McCollum



Marsha Blackburn



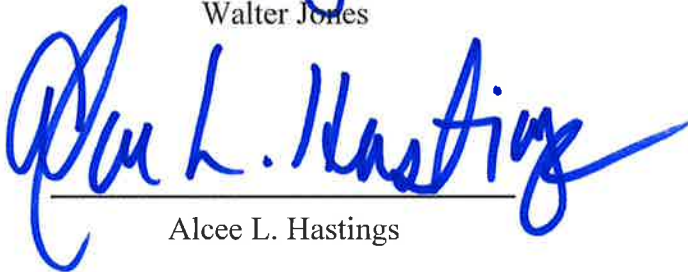
Kenny Marchant



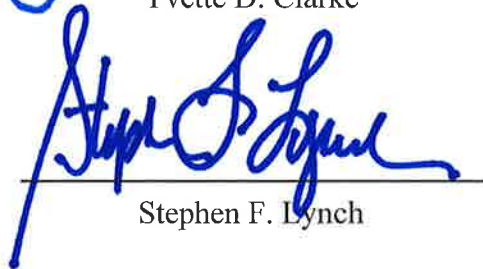
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Yvette D. Clarke



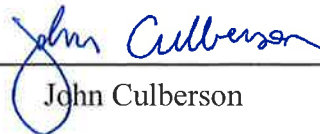
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Stephen F. Lynch



Steve Chabot




John Culberson



Christopher Smith



Doug Lamborn



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Ryan Zinke



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Robert Hurt



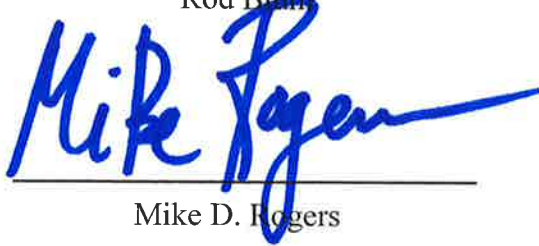
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Rod Blum



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Robert Dold



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Mike D. Rogers



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Peter King



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Ryan A. Costello




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Mike Bishop



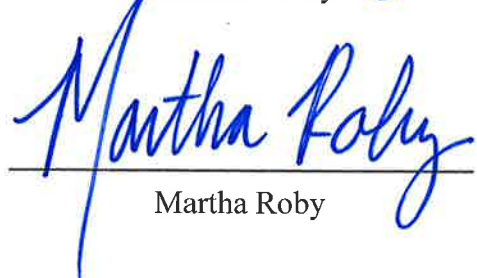
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Crescent Hardy



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Earl 'Buddy' Carter



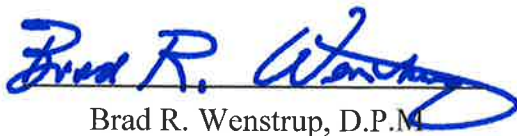
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Martha Roby



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Bill Huizenga



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Brad R. Wenstrup, D.P.M.



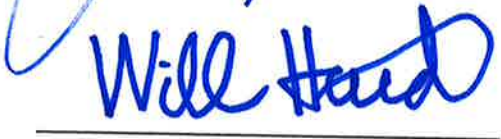
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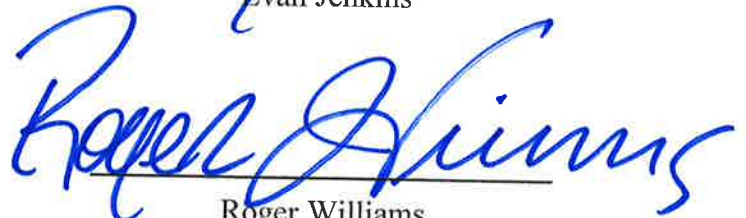
  
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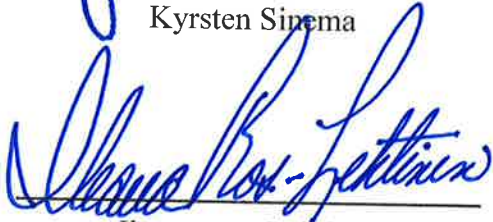
  
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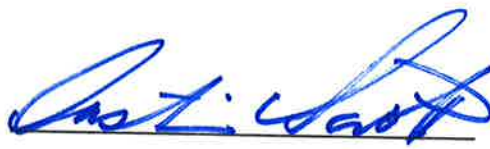
  
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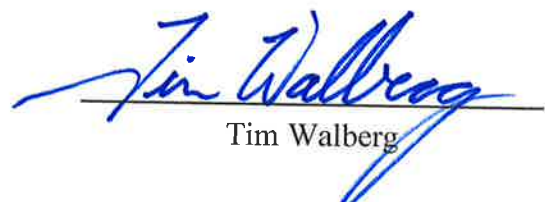
  
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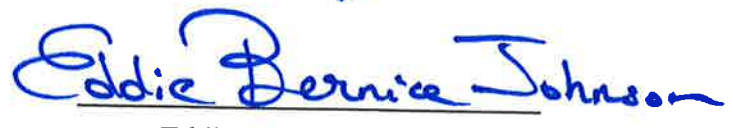
  
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Tim Walberg

  
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Brian Higgins

  
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Eddie Bernice Johnson

A stylized, handwritten signature in blue ink, appearing to read 'B. Byrne', with a long horizontal flourish extending to the right.

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Bradley Byrne

A handwritten signature in blue ink that reads 'Tammy Duckworth' in a cursive style, with a horizontal line underneath the signature.

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Tammy Duckworth