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Congress of the United States  
House of Representatives  
Washington, DC 20515-4304

February 4, 2014

COMMITTEE ON  
ENERGY AND COMMERCE  
SUBCOMMITTEE ON ENERGY AND POWER  
SUBCOMMITTEE ON ENVIRONMENT  
AND THE ECONOMY

COMMITTEE ON  
SCIENCE, SPACE, AND TECHNOLOGY  
CHAIRMAN EMERITUS  
SUBCOMMITTEE ON ENERGY  
SUBCOMMITTEE ON SPACE

The Hon. John Boehner  
Speaker of the House  
U.S. Capitol, H-232  
Washington, D.C. 20515

The Hon. Nancy Pelosi  
House Minority Leader  
235 Cannon House Office Bldg.  
Washington, D.C. 20515

Dear Mr. Speaker and Minority Leader:

We are writing to urge Leadership and the Committees of Jurisdiction to postpone a recent Centers for Medicare and Medicaid Services (CMS) Final Rule related to home health services as soon as possible. If this rule is not postponed and appropriately evaluated, according to CMS projections almost half of the home health industry will be paid less than their costs. Current industry data shows that as many as 73% of home health agencies across the country could be out of business when the rule is fully implemented.

This summer over 140 Members of the House of Representatives, the majority of the Senate, dozens of stakeholders among beneficiary advocacy organizations (including AARP), and tens of thousands of seniors and caregivers wrote to CMS to encourage CMS to reconsider the proposed Prospective Payment System (HPPS) rule for home health.

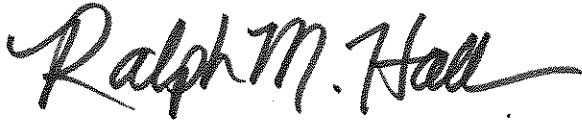
The Final Rule was released on November 22<sup>nd</sup> and clearly does not take into consideration the appeals made by the U.S. Congress and interested stakeholders. The Final Rule unnecessarily rebases payment rates at the maximum cut permitted under the Affordable Care Act: a cut of -3.5% per year over each of the next 4 years, totaling an unprecedented cut to Medicare home health funding of 14% by 2017. CMS ignored requests to evaluate or consider the impact on access to care for the over 47 million Medicare beneficiaries who may need home health care. For example, CMS did not consider any of the available alternative methods of rate rebasing that would have ensured continued access to care while conforming to its legal obligations. In addition CMS did not fully assess the impact of rebasing on beneficiaries and small business for the entire 4 years (2014-2017) in which it is to take effect.

Urgent action is needed as the Final Rule took effect January 1, 2014. Home health plays an essential role in our health care system by serving the Medicare population with skilled nursing and habilitation services in the least costly setting – the home, and it is imperative that we protect access to care through informed and reasonable rulemaking.

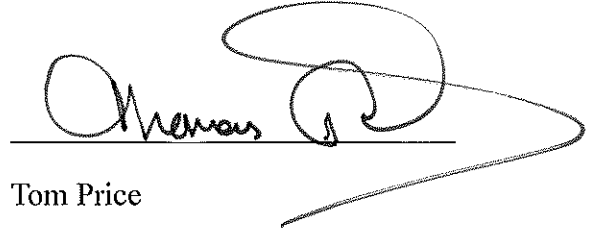
The home health community has offered a fully offset suggestion that would require CMS to re-evaluate the methodology for home health rate rebasing taking into consideration all factors relevant to maintaining access to care, and would require a report to Congress on the re-evaluation. We fully support this approach and urge Leadership and others to consider and include this fully offset proposal as soon as possible.

Attached please find the proposal by the greater home health community and thank you for your prompt consideration.

Sincerely,



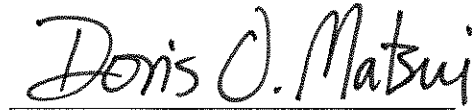
Ralph M. Hall



Tom Price



David McKinley



Doris O. Matsui

Cc: CMS

Cc: Committees of Jurisdiction

Attachment

1 SEC. \_\_\_\_ . ONE-YEAR POSTPONEMENT OF THE REBASING  
2 OF MEDICARE HOME HEALTH PROSPECTIVE  
3 PAYMENT AMOUNTS.

4 (a) POSTPONEMENT.—Section 1895(b)(3)(A)(iii) of  
5 the Social Security Act (42 U.S.C. 1395fff(b)(3)(A)(iii))  
6 is amended—

7 (1) in subclause (I), in the first sentence, by  
8 striking “subclause (II)” and inserting “subclauses  
9 (II) and (III)”;

10 (2) in subclause (II), in the first sentence, by  
11 striking “The Secretary” and inserting “Subject to  
12 subclause (III), the Secretary”; and

13 (3) by adding at the end the following new sub-  
14 clause:

15 “(III) SPECIAL RULE.—Notwith-  
16 standing subclauses (I) and (II), the  
17 adjustment under subclause (I) for—

18 “(aa) 2014 shall be 0 per-  
19 cent; and

20 “(bb) 2015 shall be 2 times  
21 the adjustment that would have  
22 applied for 2015 under subclause  
23 (I) if this subclause had not been  
24 enacted.

1                   Nothing in this subclause shall affect  
2                   adjustments to be applied for years  
3                   after 2015.”.

4           (b) REVISION OF HOME HEALTH OUTLIER ADJUST-  
5   MENT.—Section 1895(b)(5)(A) of the Social Security Act  
6   (42 U.S.C. 1395fff(b)(5)(A)) is amended, in the second  
7   sentence, by inserting “(or, in the case of 2014 through  
8   2023, 2.0 percent)” after “2.5 percent”.

9           (c) STUDY AND REPORT.—

10           (1) STUDY.—

11                   (A) IN GENERAL.—The Secretary of  
12                   Health and Human Services, in consultation  
13                   with representatives of Medicare home health  
14                   agencies and beneficiaries, shall conduct a study  
15                   on alternative methods for determining the ap-  
16                   propriate adjustment under section  
17                   1895(b)(3)(A)(iii) of the Social Security Act  
18                   (42 U.S.C. 1395(b)(3)(A)(iii)), including meth-  
19                   ods offered by stakeholders. Such study shall  
20                   include an analysis of —

21                           (i) the impact of the adjustment on  
22                           beneficiary access to care;

23                           (ii) the number and share of home  
24                           health agencies that are projected to expe-  
25                           rience negative Medicare margins by 2017,

1 including the location, size and type of  
2 such agencies;

3 (iii) with respect to home health agen-  
4 cies described in clause (ii)—

5 (I) the total number, average  
6 age, average income, and average  
7 number of activities of daily living of  
8 the Medicare beneficiaries such agen-  
9 cies currently serve;

10 (II) the number and location of  
11 counties in which such agencies serve  
12 as the sole provider of Medicare home  
13 health services; and

14 (III) the payer mix of such agen-  
15 cies; and

16 (iv) other areas determined appro-  
17 priate by the Secretary.

18 (B) REQUIREMENT FOR ALTERNATIVE  
19 METHODS.—The alternative methods described  
20 in subparagraph (A) shall cover each of the  
21 years in which the rebasing adjustment under  
22 such section 1895(b)(3)(A)(iii) is to be applied.

23 (2) REPORT.—Not later than June 30, 2014,  
24 the Secretary of Health and Human Services shall  
25 submit to Congress a report on the study conducted

1       under paragraph (1), together with such rec-  
2       ommendations as the Secretary determines appro-  
3       priate.