

Congress of the United States
Washington, DC 20515

September 23, 2010

The Honorable Donald Berwick, M.D.
Administrator, Centers for Medicare and Medicaid Services
U.S. Department of Health Human Services
200 Independence Ave. SW
Washington, D.C. 20201

Dear Administrator Berwick:

We write to express concern over payment rate changes and regulatory changes contained in the Centers for Medicare and Medicaid Services (CMS) Medicare Home Health PPS Update for 2011 Proposed Rule.

The provisions in the Affordable Care Act, including those related to home health care, were precisely crafted to try to balance competing or complicated interests. In the case of home health, we sought to support Medicare solvency as well as industry sustainability with short term rate restructuring, reduction of certain "outlier" payments and long term rate rebasing.

We are concerned that the proposed rule lays out rate and regulatory changes that go beyond the Congressional intent in the Affordable Care Act and that these changes could be detrimental to both high quality Massachusetts providers and the patients who depend on them. These changes may also negatively impact our broader health reform agenda that looks to home care to partner with Medicare on such innovations as the Independence at Home Act, and chronic care and care transitions demonstrations.

While the CMS rule implements the planned market basket and outlier cuts, it increases the case-mix weight change adjustment in 2011 from an expected 2.71% to 3.79%; and it adds a further case mix reduction for patients with hypertension diagnoses. It is our understanding the later adjustment was done without any appropriate analysis of the impact of elimination of these hypertension codes on resource utilization and payment to home health agencies. Massachusetts home health agencies have reported that this policy change could be significant and certainly in excess of 1 percent. The result of these changes, when coupled with wage index adjustments, is that the Northeast, according to figures published in the Federal Register will see the highest average cuts of any area in the country.

We also request that CMS give serious consideration to comments from home health agencies regarding restructuring the proposed rules around physician face to face

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encounters. This language was included in the Affordable Care Act to strengthen physician home health relationships and improve care coordination. However, the regulation implements it in a way that will greatly complicate the transition process as patients move from other care settings into home health.

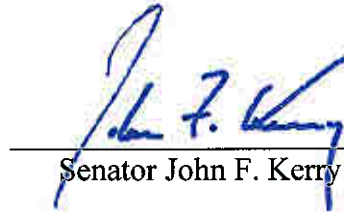
We have heard from home health agencies in Massachusetts that they need additional flexibility in the time periods for the encounter rather than the 30 days proposed by CMS and that telehealth or telephonic visits should be allowed in situations where leaving home would be considerably taxing.

Thank you for your consideration of this request.

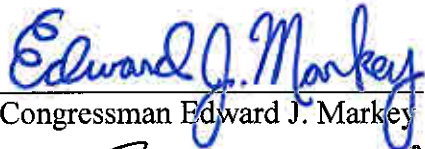
Sincerely,



Congressman Jim McGovern



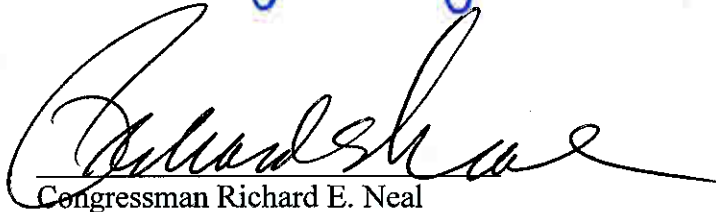
Senator John F. Kerry



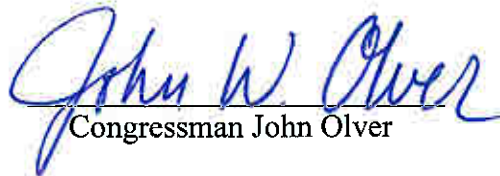
Congressman Edward J. Markey



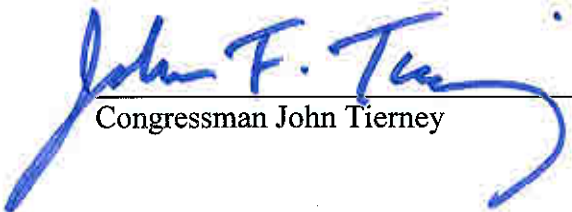
Congressman Barney Frank



Congressman Richard E. Neal



Congressman John Olver



Congressman John Tierney



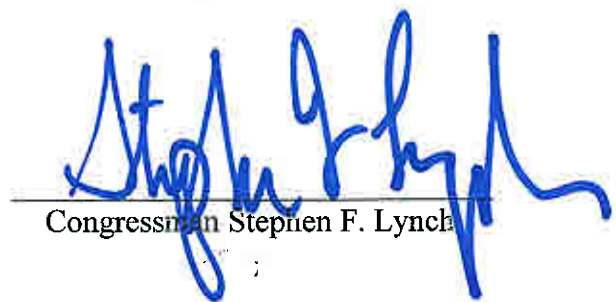
Congressman Bill Delahunt


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Congressman Michael Capuano


Congressman Stephen F. Lynch


Congresswoman Niki Tsongas