

Congress of the United States
Washington, DC 20515

December 16, 2008

Mr. Kerry Weems
Acting Administrator
Centers for Medicare and Medicaid Services
200 Independence Ave. SW
Hubert Humphrey Building Room
Washington, DC 20024

Dear Acting Administrator Weems:

We are writing today to ask that the Centers for Medicare and Medicaid Services (CMS) delay the final rule capping Medicare reimbursements to home oxygen suppliers at 36 months, which is due to go into effect on January 1, 2009.

As you know, previous to the Deficit Reduction Act of 2005, oxygen equipment was rented to patients through Medicare on a continuous rental basis. However, a provision in the Deficit Reduction Act limited monthly rental payments to oxygen suppliers to 36 months of continuous use. After 36 months, the title of the equipment would be transferred to the patient.

This raised many concerns, since the administration of oxygen is sensitive, and the maintenance and repair of the equipment is complex. Patients may not be able to afford to have their equipment serviced or have their supplier come help them with the equipment, which could compromise their health and safety. It would also presumably increase the number of emergency room visits as a result of improper or inadequate equipment upkeep.


In an effort to avoid these potential problems, the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) included a repeal of this provision, leaving ownership with the oxygen supplier. Congress instructed CMS to establish adequate payments for continued care of these patients after the 36-month period. However, when CMS published the final rule it continued to cap the number of months that an oxygen supplier would receive monthly rental reimbursements at 36 months, requiring suppliers to shoulder the burden of maintaining and repairing equipment for the remainder of the reasonable life of the equipment. The rule establishes inadequate maintenance and service payments equal to only two 30 minute visits annually at a payment rate of approximately \$30 per visit. In addition, the rule requires the original oxygen provider to continue to provide oxygen therapy for those patients who move out of the original oxygen provider's service area for the rest of the reasonable life of the equipment.

This rule does not take into account unscheduled or emergency repairs or the replacement of supplies associated with the oxygen use. This will result in a decreased level of care for oxygen patients, and will potentially greatly increase the incidence of emergency room visits. After the 9.5% Medicare reimbursement cuts for home oxygen suppliers goes into effect on January 1, 2009, a one-day hospital stay will cost more than it would cost to continue to provide home oxygen service for two years.

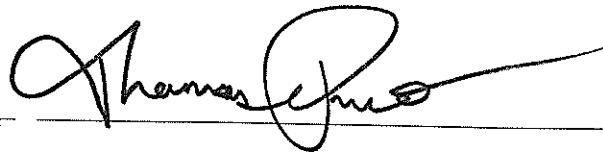
Home oxygen suppliers are more than just equipment suppliers, they are also caregivers. They show patients how to use their equipment, answer patients' questions, make repairs and adjustments, and ensure that patients are receiving the correct amount of oxygen. Many suppliers provide 24/7 unscheduled, emergency care, and in rural areas drive significant distances to make sure that their patients receive the care they need. Without reimbursements for these visits, suppliers may not be able to afford to continue their current level of care, and the quality of care for many of these oxygen patients is going to decrease.

Thank you for your consideration of our request to delay this rule.

Sincerely,



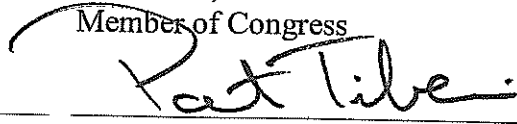
Heath Shuler
Member of Congress



Tom Price, M.D.
Member of Congress



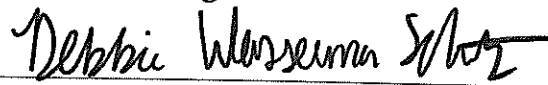
James Langevin
Member of Congress



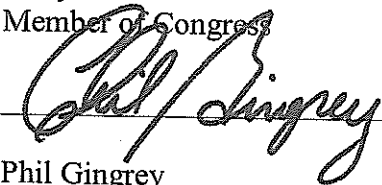
Patrick Tiberi
Member of Congress



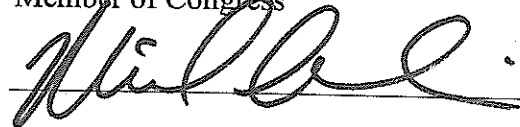
Mary Bono Mack
Member of Congress



Debbie Wasserman Schultz
Member of Congress



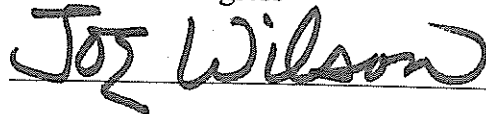
Phil Gingrey
Member of Congress



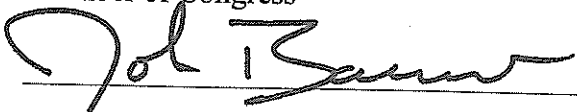
Michael A. Arcuri
Member of Congress



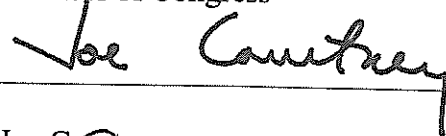
Ron Paul
Member of Congress



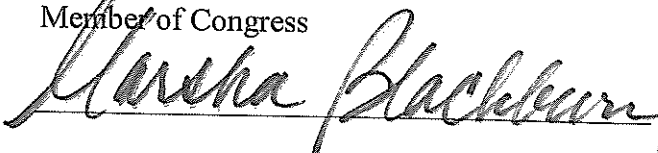
Joe Wilson
Member of Congress



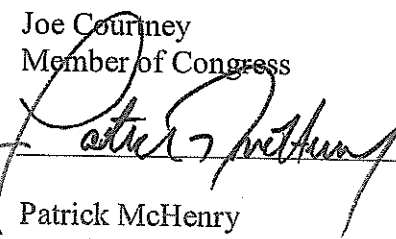
John Barrow
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Joe Courtney
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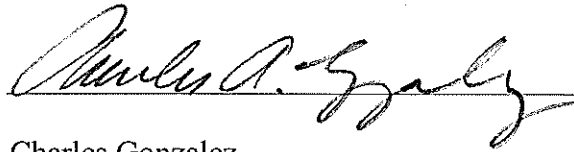
Marsha Blackburn
Member of Congress



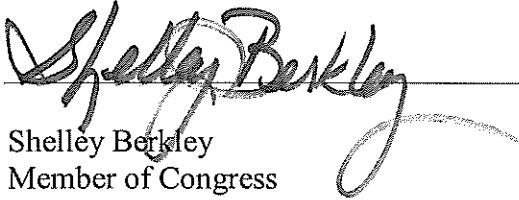
Patrick McHenry
Member of Congress



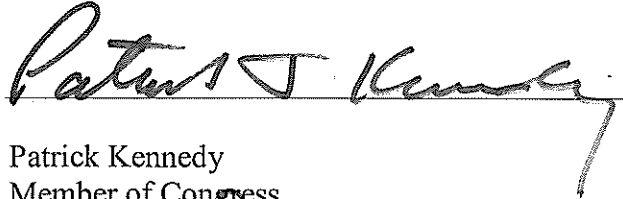
Frank Wolf
Member of Congress



Charles Gonzalez
Member of Congress



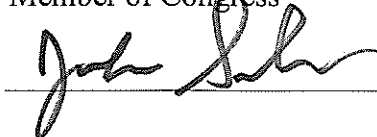
Shelley Berkley
Member of Congress



Patrick Kennedy
Member of Congress



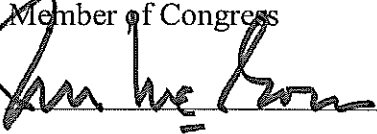
Lincoln Davis
Member of Congress



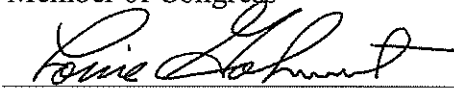
John Sarbanes
Member of Congress



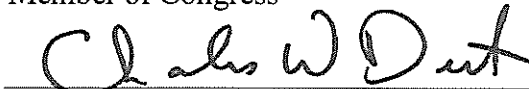
Ted Poe
Member of Congress



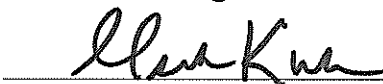
James P. McGovern
Member of Congress



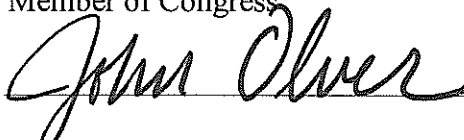
Louie Gohmert
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Charles Dent
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Mark Kirk
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John Olver
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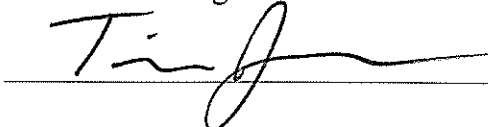
Brad Miller
Member of Congress



Henry C. "Hank" Johnson
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Robert C. "Bobby" Scott
Member of Congress



Timothy Johnson
Member of Congress



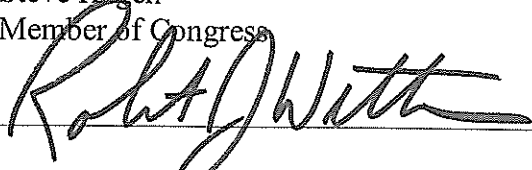
David Loebach
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John Tanner
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Steve Kagen, M.D.

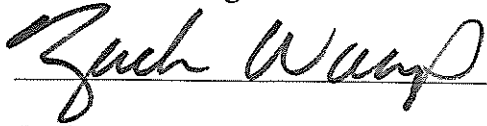
Steve Kagen
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Robert Wittman
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Zach Wamp
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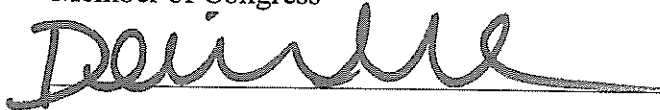
Mazie Hirono
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Bob Etheridge
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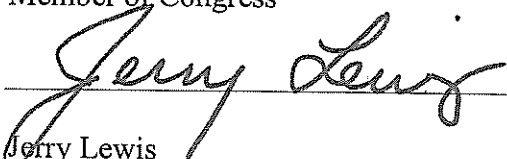
Betty Sutton
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Dennis Moore
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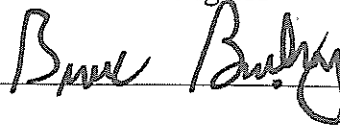
Dale Kildee
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Jerry Lewis
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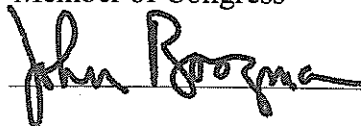
Paul Hodes
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Bruce Braley
Member of Congress



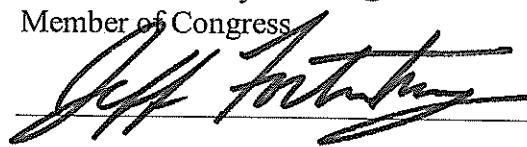
Robert Aderholt
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John Boozman
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Michael Conaway
Member of Congress



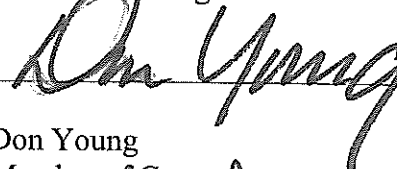
Jeff Fortenberry
Member of Congress



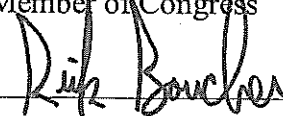
Michael Michaud
Member of Congress



Michael Turner
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Don Young
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Rick Boucher
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Paul P. Kanjorski

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Jerry Moran

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Pete Sessions

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Todd Tiahrt

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Member of Congress

Tammy Baldwin

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Member of Congress

William Delahunt

William Delahunt
Member of Congress

Ellen Tauscher

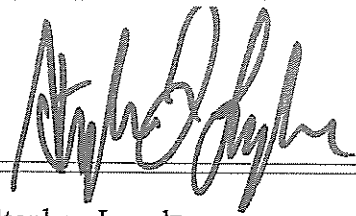
Ellen Tauscher
Member of Congress

Howard Coble

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Member of Congress

Howard P. "Buck" McKeon

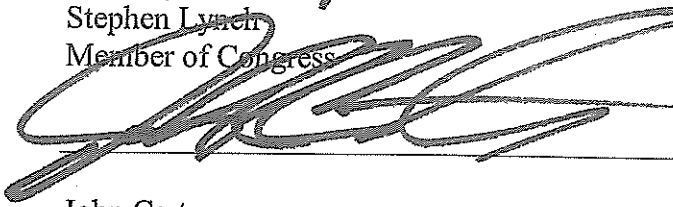
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Member of Congress



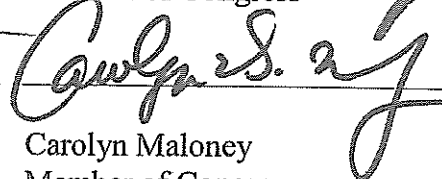
Stephen Lynch
Member of Congress



David Obey
Member of Congress



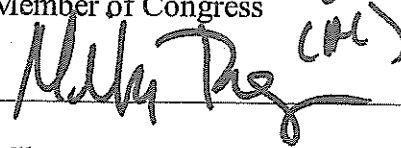
John Carter
Member of Congress




Carolyn Maloney
Member of Congress



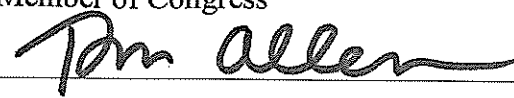
John Lewis
Member of Congress



Mike Rogers
Member of Congress



Marcy Kaptur
Member of Congress



Tom Allen
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Ron Klein
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Artur Davis
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