

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

September 18, 2017

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Administrator Verma:

The Centers for Medicare and Medicaid Services (CMS) has important work ahead to implement the next round of competitive bidding in a way that is both fiscally responsible and ensures beneficiary access to critical homecare products and services. However, we write to share our concerns regarding the agency's decision to move forward with a mandatory bundling program of continuous positive airway pressure (CPAP) devices. This proposal, to our knowledge, cannot be traced to any Congressional directive, nor is bundling payments for chronic conditions the same as a bundling program for conditions with a discrete beginning or end. For this reason, the bundling of CPAP equipment, supplies and maintenance services could jeopardize access to care, and may substantially increase co-payments and out-of-pocket expenses for beneficiaries. Therefore, we urge CMS to reconsider its decision to move forward with this new bundling program at this time.

As you are aware, CMS' prior announcement selected ten geographic areas around the country to test a single bundled payment for CPAP devices, resupply items which are essential to long-term adherence with therapy such as tubing, masks, and filters, and repair and maintenance services. Rather than having the opportunity to own their device, beneficiaries will be required to pay a co-pay to rent their devices in perpetuity under the bundled model. By not owning their own CPAP device or being allowed to take it with them, this arrangement will create challenges for beneficiaries who move or travel. It could also potentially disrupt access to medically necessary resupply and support services in the selected communities by imposing financial disincentives to furnish these supplies and services. Without including any appropriate quality metrics or other policies to safeguard patient access, the payment structure penalizes durable medical equipment (DME) suppliers who seek to provide higher-quality items and beneficiary support necessary to ensure long-term adherence to therapy.

Although we encourage CMS to continue testing promising alternative payment models, the agency's own assessment in the final rule does not suggest that this program holds much potential to save the Medicare program money or enhance the quality of home-based respiratory care.<sup>1</sup> We are also concerned that this proposed bundled payment model does not appear to be supported by the statutory authorities cited by CMS in its rulemaking. The general competitive bidding statute does not authorize CMS to test alternative payment models or other

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<sup>1</sup> 79 Fed. Reg. 66120, 66258 (Nov. 6, 2014).

configurations of items and services beyond the clearly delineated categories of equipment subject to the bidding process.<sup>2</sup>

In light of these concerns, we call on CMS to delay the inclusion of CPAP bundling in the upcoming round of competitive bidding until they are addressed. Instead, we encourage the agency to work with Congress and stakeholders to prioritize efforts that bring stability to the program. If the agency is interested in reforms to ensure better compliance with CPAP therapy and other home respiratory care, we stand ready to work with you on initiatives that have a greater potential to save money and improve health outcomes.

Thank you for your attention to these important matters, and we look forward to your response.

Sincerely,



TIM WALBERG  
Member of Congress



SCOTT H. PETERS  
Member of Congress



MIKE BISHOP  
Member of Congress



DEBBIE DINGELL  
Member of Congress



CATHY McMORRIS RODGERS  
Member of Congress



STEVE KING  
Member of Congress



PATRICK MEEHAN  
Member of Congress



JASON SMITH  
Member of Congress

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<sup>2</sup> Section 1847 of the Social Security Act directs the Secretary to establish a competitive acquisition process for “Covered items (as defined in section 1834(a)(13)) for which payment would otherwise be made under section 1834(a)”, but which *does not* include separately billed repair and maintenance services, or other groupings of items and services that the agency decides.



BARBARA COMSTOCK  
Member of Congress



TERRI SEWELL  
Member of Congress



BRETT GUTHRIE  
Member of Congress



STEVEN PALAZZO  
Member of Congress



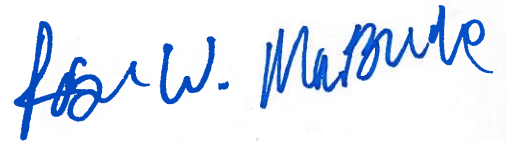
DAVE TROTT  
Member of Congress



KEITH ROTHFUS  
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BILL SHUSTER  
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ROGER MARSHALL, M.D.  
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ROD BLUM  
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