October 5, 2018

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

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

Dear Secretary Azar and Administrator Verma:

We write today regarding our continued concerns about beneficiary access to necessary durable medical equipment (DME) under Medicare's competitive bidding program. Ensuring access to DME is critically important to our constituents, particularly those residing in rural areas in our states.

We appreciate the Centers for Medicare and Medicaid Services' (CMS) interim final rule (IFR), CMS-1687-IFC, impacting reimbursement for DME in rural and non-contiguous, non-competitively bid areas (non-CBAs). The reinstatement of the initial transitional blended rate from June 1, 2018 through December 31, 2018 provides important relief for suppliers facing serious financial difficulty in the most rural areas of the country. Further, we believe CMS' willingness to acknowledge the loss of suppliers in non-CBAs and state that DME access may be negatively impacted by reimbursement reductions in remote areas indicates that the Department is on the right track to finding thoughtful solutions in this space.

We are also pleased that CMS continues to consider this issue through its proposed rule, CMS-1691-P. We commend the proposal to further extend the transitional payment rate for rural and non-contiguous non-CBAs through December 31, 2020. In the same proposed rule, CMS seeks feedback on whether this rate should be applied to the remaining non-CBAs. We urge CMS to apply the transitional reimbursement rate uniformly to all non-CBAs in its final rule.

Ensuring all Medicare beneficiaries in non-CBAs have access to the medical equipment they need has always been Congress' intent. As you know, Congress legislatively extended the transitional blended rate established by CMS through Section 16007 of P.L. 114-255, without creating any distinction regarding the location of the non-CBA. Similarly, in 2017, nearly half of the United States Senate urged CMS to take regulatory action to provide relief to DME providers in non-CBAs, again, without indicating a preference that there should be different treatment for rural or non-contiguous non-CBAs versus all other non-CBAs.

Finally, we thank CMS for its attention to Section 16008 of P.L. 114-255, which requires the consideration of travel distance, volume, and number of suppliers when factoring reimbursement adjustments for DME furnished after January 1, 2019. In finalizing the rule, we urge CMS to work with industry to understand factors that may not be evident in claims data, such as the combined impact of travel distance and volume on the cost to do business for non-CBA areas.

We continue to hear concerns from providers that the cost per delivery in non-CBAs is greater because travel costs are fixed and the volume of business is smaller when compared to CBAs.

Thank you for your time and attention to this important matter. Again, we urge you to extend the transitional blended payment rate to all non-CBAs uniformly and to continue to engage with industry stakeholders to address outstanding concerns surrounding future reimbursement adjustments.

Sincerely,

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JOHN THUNE United States Senator	HEIDI HEITKAMP United States Senator
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United States Senator	United States Senator
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cc: The Honorable Mick Mulvaney, Director, Office of Management and Budget