

Congress of the United States

Washington, DC 20515

June 1, 2011

Donald Berwick, M.D.
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Berwick,

On January 18, 2011, President Obama issued an executive order calling on every federal agency to review their regulations to ensure they “promote predictability and reduce uncertainty,” “take into account benefits and costs,” and “identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends.” As members of the Blue Dog Coalition and the Task Force on Oversight and Regulatory Review, we applaud this initial step and look forward to working with the Administration to cut red tape and remove outdated regulations that slow job creation.

Recently, we have spoken with home health agencies from across the nation regarding a regulation that the Patient Protection and Affordable Care Act (PPACA) authorized in Section 6407. We are concerned that the new regulation extends beyond the original intent of the law and unfairly burdens the home health industry.

Currently, health care providers sign Form 485, the home health certification and plan of care form, when they certify the need for care. Last year, the Centers for Medicare and Medicaid Services (CMS) issued a final rule requiring that face-to-face encounters between providers and patients be either a separate and distinct area on the certification or a separate and distinct addendum to the certification. The final rule, which went into effect on April 1, 2011, requires providers to sign a second attestation that includes the date of the face-to-face encounter and medical condition of the patient the clinical findings, the reason for the patient being homebound, and the skilled services identified. While PPACA gives CMS the authority to determine an appropriate timeframe for a face-to-face encounter to occur, the legislation does not authorize an additional paperwork requirement, making this requirement particularly onerous.

While the Department of Health and Human Services has issued Form 485, an attestation that a patient is homebound and in need of the skilled services that the doctor has ordered, it has

not issued a similar form that meets the requirements of the new CMS-required attestation. As a result, doctors, hospitals, and rehabilitation centers all use different forms. The complete lack of uniformity burdens the home health agencies that are reliant on the proper completion of the forms for Medicare reimbursement.

The new regulation is duplicative of existing requirements, unfairly burdens home health agencies, puts proper reimbursement at risk and has resulted in paperwork lacking uniformity. Given the complications the new requirement has caused, we write to request changes to the regulation in order to achieve the true intent of the regulation. Additionally, we request that CMS consider accomplishing the new requirement by simply adding an additional field on the existing Form 485. Simply reducing the paperwork requirement will streamline the process for both CMS and the home health agencies and bring uniformity to the regulation.

The Blue Dog Coalition is committed to working with you and all key stakeholders to monitor legislative implementation efforts, identify overly burdensome regulations and seek to modify rules problematic to job creation.

Sincerely,

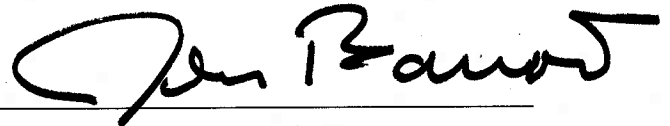


Ben Chandler, Task Force Chair



Tim Holden, Task Force Vice-Chair

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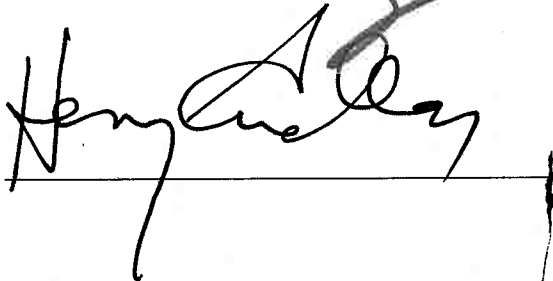


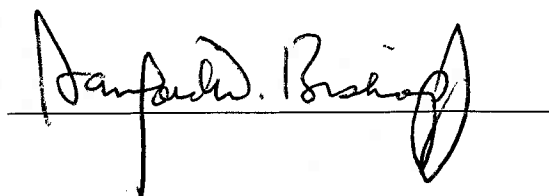
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Jim Mathers

Joe Anna

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Nike Mestry

Louella Sausly

James Cott

Mike Simpson

Kevin Schuber

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Adam B. Liff

Michael H. Michael

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