



Working Together for an Affordable Future

September 27, 2016

The Honorable Kevin Brady
Chairman
House Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ron Kind
U.S. House of Representatives
1502 Longworth House Office Building
Washington, D.C. 20515

The Honorable Pat Tiberi
Chairman
House Committee on Ways and Means,
Subcommittee on Health
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Brady, Chairman Tiberi and Representative Kind:

I write today to provide the National Coalition on Health Care's feedback on HR 3298, the Post Acute Care Value Based Purchasing Act of 2015, as amended by the draft Amendment in the Nature of a Substitute (AINS). We also respond to your request for feedback on regulatory relief which might accompany such legislation.

NCHC is a coalition of health care stakeholder organizations committed to promoting an affordable, high-quality health system in the United States. As the nation's oldest and most diverse group working to achieve comprehensive health reform, we represent more than 85 member organizations, including health care providers, purchasers, payers, and consumers.

Significant variation exists in Medicare post-acute care spending between and within geographic areas. And in many cases, Medicare's own siloed payment policies and the structure of post-acute provider markets, not beneficiaries' needs and preferences, may be driving the care the patient receives and the

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setting in which it is provided.

The IMPACT Act took an important step toward more person-centered post-acute care by standardizing assessment data and providing for quality and resource use metrics that could be comparable across PAC provider types. The IMPACT Act also laid out a path toward much broader reform by directing the Secretary to develop recommendations with respect to a PAC prospective payment system. But it by no means closed the book on additional improvements in the interim.

In fact, every year that Congress allows the distortions in Medicare’s post-acute reimbursement and benefit structure to persist, more patients receive care they do not need and others fail to receive care that they should. Meanwhile, Medicare grows less affordable for beneficiaries and taxpayers.

This is why NCHC applauds your commitment to additional legislation that improves care and lower costs in the post-acute setting. We provide our detailed comments on the bill as amended by the draft AINS below.

HR 3298 as Amended

We are encouraged that HR 3298 establishes a single VBP program across all PAC provider categories built around IMPACT Act measures. HR 3298 would apply a pay for performance approach, based in part on the IMPACT Act resource use metric, across all provider categories. This should help lessen the incentives to treat patients in more expensive settings when patients’ care does not require such treatment.

We particularly appreciate that the proposed PAC VBP would utilize the quality metrics within the IMPACT Act’s “functional status, cognitive function and changes in functional and cognitive function” domain. Functional outcomes are a crucial quality dimension for PAC services and provides a necessary complement to resource use metrics.

However, as amended by the AINS, HR 3298’s legislative language does raise a few issues that need to be addressed as the bill moves forward.

First, we are concerned that the VBP performance score is based solely on a resource use metric during the years 2019 and 2020. If the goal is to base payment on value (quality AND cost), this is not a step forward, and could have unintended consequences for patient care. We recommend delaying operation of the VBP until both resource use and functional/cognitive metrics are available for use.

Second, we note that the exact functional/cognitive metric to be employed under the IMPACT Act has yet to be determined. Given this fact, prudence suggests and NCHC recommends that final PAC VBP legislation grant the Secretary flexibility to employ a composite of multiple functional and cognitive metrics or incorporate measures from other IMPACT Act domains into the quality component of HR 3298’s PAC VBP alongside functional measures.

Third, we believe that rigorous evaluation of both the measures and the overall impact of the program on expenditures and beneficiary care is necessary for CMS to effectively implement the program and for Congress to discharge its oversight responsibilities. We would ask that authority and funding be made available for this purpose as part of any final legislation.

Regulatory Relief

True PAC reform is more than adjusting payment; it demands alignment of benefits and reimbursement structures with the aim of providing better care at lower cost—particularly for the chronically ill. We support pairing PAC VBP legislation with relief from those regulatory and statutory provisions which stand in the way of that aim. We recommend the following specific legislative measures, now before the Committee on Ways and Means:

HR 3229: This bill would provide for a targeted exception from Medicare’s Durable Medical Equipment (DME) competitive bidding procedures for wheelchair accessories (such as personalized seat cushions or head cushions) for manual complex rehab wheelchairs. Current law exempts these accessories for Complex Rehab Technology (CRT) power wheelchairs, but not for CRT manual wheelchairs. For patients with disabling or chronic conditions (such as multiple sclerosis) whose care and comfort requires personalized adjustments to equipment, access to the right accessories is indispensable to the function and management of their chronic condition. In general, NCHC supports competitive bidding in DME. However competitive bidding works best for standardizable goods, not for personalized equipment. This bill simply aligns treatment of accessories for manual CRT wheelchairs with accessories for power wheelchairs.

HR 5772 the Beneficiary Enrollment and Eligibility Simplification (BENES) Act: Today’s labyrinthine Medicare enrollment procedures can confuse Medicare enrollees, often inadvertently subjecting them to gaps in coverage and increased Part B premiums. This represents a substantial shift of costs onto the affected beneficiaries and an administrative burden on providers, employers and plans who field complaints from beneficiaries affected by those coverage gaps. This bill would instruct the Social Security Administration to contact beneficiaries six months and one month prior to their eligibility date to inform them of their options. It also addresses coverage gaps in the 5th, 6th and 7th months of enrollment periods of which beneficiaries are seldom aware, and aligns the Medicare General Enrollment Period with the current open enrollment period for Medicare Advantage and Medicare Part D.

HR 1571 the Improving Access to Medicare Coverage Act: This legislation repeals the absurd provision of law that requires overnight ‘observation’ stays to be treated differently than inpatient stays with respect to Medicare coverage of subsequent Skilled Nursing Facility care. The arbitrary limitation on Medicare coverage which this bill addresses has no basis in sound clinical practice or health care policy.

We thank you for the opportunity to offer our feedback on these issues. If you have questions regarding these issues, please contact myself or NCHC’s Policy Director Larry McNeely at lmcneely@nchc.org or 202-638-7151.

Yours truly,

A handwritten signature in black ink that reads "John Rother". The signature is fluid and cursive, with the first name "John" and last name "Rother" clearly distinguishable.

John Rother
President and CEO