

June X, 2017

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

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

Dear Secretary Price and Administrator Verma:

We write today regarding the Centers for Medicare and Medicaid Services (CMS) regulations for Durable Medical Equipment (DME) in the Medicare program. Access to DME for Medicare beneficiaries is important to promote independence, manage chronic conditions, and improve overall well-being.

As you know, the Patient Protection and Affordable Care Act (P.L. 111-148) required CMS to establish adjusted fee schedules for DME in non-competitively bid areas and to consider the costs of furnishing services in these areas. We are concerned that CMS did not fully consider the costs of providing DME in non-competitively bid areas or the length of time needed by providers to adjust to the change.

To address these concerns, Congress included Section 16007 in the 21<sup>st</sup> Century Cures Act (P.L. 114-255), which delayed applying the second half of the adjustment for competitively bid prices in non-competitively bid areas through December 31, 2016. This provision also required the Department to study and report to Congress on how applying competitively bid prices in non-competitively bid areas affects beneficiary access to DME by January 12, 2017. To further address the unique challenges faced in non-competitively bid areas, Section 16008 requires the Department to take into account factors such as travel distance, cost of furnishing and servicing items, supply service and volume, and the number of suppliers in an area when determining future adjustments to competitive bidding prices.

While the delay directed by Congress was critical to avoid immediate disruptions in beneficiary access, lower reimbursement rates have now gone into effect. The language in the 21<sup>st</sup> Century Cures Act clearly demonstrates Congress' concern with the current reimbursement structure, and we request that the Department swiftly use its regulatory authority to provide further relief in non-competitively bid areas.

Thank you for your time and attention to this important matter. We look forward to your response.

Sincerely,

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JOHN THUNE  
United States Senator

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HEIDI HEITKAMP  
United States Senator