

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

February 6, 2015

The Honorable Sylvia Matthews Burwell  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Marilyn Tavenner  
Administrator  
Centers for Medicare and Medicaid Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Burwell and Administrator Tavenner:

Across the country, more than 400 organizations are participating in Medicare's Accountable Care Organizations (ACOs). As you know, the accountable care model brings together physicians, hospitals, and other healthcare providers to give high quality, coordinated care to the nation's seniors. Preliminary results have shown that the model has the potential to lower costs and improve the care experience for Medicare beneficiaries. Reforms are needed in the current system to ensure that the program reaches its full potential, however. The Medicare Shared Savings Program (MSSP) Proposed Rule is a positive step forward.

ACOs represent one critical tool for shifting our Medicare system from one that pays for volume to one that pays providers to focus on improving healthcare outcomes and lowering cost. We believe it is critical that the ACO program begin to test ways to fundamentally move away from fee-for-service reimbursement. That is why our legislation in the 113<sup>th</sup> Congress, H.R. 5558, would require CMS to test capitated, or population-based payment models. An essential step for the evolution of the delivery system will be to test new ways of paying providers at escalating levels of accountability.

The current system must be adjusted to better align risk and reward in the system, so that these organizations can innovate and flourish. As you consider finalizing the Proposed Rule, we urge you to strike a balance when encouraging organizations to take on escalating levels of financial risk. It is important that the Centers for Medicare and Medicaid Services (CMS) continue to nurture ACO development by making appropriate accommodations for organizations that are testing care coordination in the original Medicare program for the first time. CMS must also ensure that proper incentives and a plan for a smooth transition are in place for organizations to take higher levels of financial risk within the program. We think CMS' financial proposals begin to accomplish these two goals.

One limitation of the existing Medicare ACO model has been the level of beneficiary engagement. We believe that fundamental changes to the program can improve beneficiary participation in their own healthcare. We applaud the Proposed Rule for its proposal to offer beneficiary attestation in ACOs and would like to see provisions similar to those in our bi-partisan legislation to encourage greater collaboration between patients and their doctors. For example, our legislation would allow ACOs to reduce seniors' out of pocket expenditures for certain primary care services. We think this is an essential component of a successful delivery model and recommend including such a provision in the final regulation.

Finally, we are encouraged that, similar to our legislation, the Proposed Rule waves the telehealth reimbursement restrictions for ACOs participating in the MSSP. We believe that all seniors should have access to appropriate technology that can help to improve both the quality and efficiency of care. Waiving these restrictions for MSSP ACOs would be an important first step toward realizing this goal, and could provide millions of Medicare beneficiaries the promise of telehealth technologies in their everyday lives. Additionally, we agree with your decision in the proposal to waive regulations such as the skilled-nursing facility three-day-stay rule, the homebound requirement for home health, and hospital discharge planning requirements regarding post-acute providers. We respectfully urge you to retain these waivers in your Final Rule.

We maintain our bi-partisan commitment to the Medicare ACO program and believe that important strides can be made toward paying providers for quality and efficiency rather than volume. We thank you for your attention to these important issues and look forward to working with you to improve the program. Should you have any questions, please contact Katie Allen in Congressman Black's office at [Katie.Allen@mail.house.gov](mailto:Katie.Allen@mail.house.gov) or Isaac Loeb in Congressman Welch's office at [Isaac.Loeb@mail.house.gov](mailto:Isaac.Loeb@mail.house.gov).

Sincerely,



DIANE BLACK  
Member of Congress



PETER WELCH  
Member of Congress