

# United States Senate

WASHINGTON, DC 20510

August 9, 2018

The Honorable Seema Verma  
Administrator, Center for Medicare and Medicaid Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Administrator Verma:

As the sponsors of the *Medicare Home Infusion Therapy Access Act of 2017* (S. 1738), we are writing to relay our concerns with the Centers for Medicare and Medicaid Services' (CMS') proposed implementation of this legislation that was passed as part of the *Bipartisan Budget Act of 2018* (Pub. L. 115-123) as section 50401. We are also concerned with CMS' proposed implementation of section 5012 of the *21<sup>st</sup> Century Cures Act* (Pub. L. 114-255). It is critical that that this legislation is appropriately implemented to ensure Medicare beneficiaries have access to home infusion starting in January 2019.

As part of the proposed rule entitled "*Medicare and Medicaid Programs; CY 2019 Home Health Prospective Payment System Rate Update and CY 2020 Case-Mix Adjustment Methodology Refinements; Home Health Value-Based Purchasing Model; Home Health Quality Reporting Requirements; Home Infusion Therapy Requirements; and Training Requirements for Surveyors of National Accrediting Organizations*" (CMS-1689-P), CMS set forth several proposed requirements to implement of the *Medicare Home Infusion Therapy Access Act* and portions of the *21<sup>st</sup> Century Cures Act* that apply to home infusion. In our legislation and the *21<sup>st</sup> Century Cures Act*, the benefit was to cover "professional services, including nursing services...". CMS in the proposed rule, however, limits reimbursement to providers to "the day on which home infusion therapy services are furnished by skilled professionals **in the individual's home.**" This physical presence requirement contradicts our intent in drafting and enacting this legislation and makes the reimbursement required by the bill inadequate.

In preparing this legislation we worked to mirror this benefit as closely as possible to private sector and other governmental home infusion programs. No other payers for home infusion (commercial plans, Medicare Advantage Plans, the Veterans Administration, or others) have such a requirement for a professional to be physically present in order to reimburse for the beneficiary's home infusion. To remain true to both the legislation and our intent, CMS should withdraw the requirement that a nurse or other professional be physically present "in the home" for reimbursement to occur, and instead to recognize that reimbursement be made for each day that a home infusion drug is infused. The original goal of the bill was to give patients freedom to receive these infusions in the comfort of their own home, without having to make the sometimes onerous journey to a healthcare facility to receive an infusion. Congress intended to give freedom to the patients in this legislation, allowing them to administer their own infusions at home without a healthcare worker.

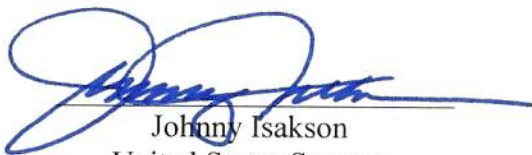
Our legislation set forth a structure for CMS to reimburse providers for their "professional services, *including* nursing services." Our intent was that home infusion providers' professional

services, such as drug preparation, clinical care planning, care coordination, nursing and other associated professional work should be a component of the home infusion benefit. To the extent that CMS believes these services were covered under the DME benefit, the purpose of the home infusion services payment was to cover them separately as home infusion professional services. These professional services are to be the basis for structuring the permanent reimbursement starting in 2021, based upon each day a home infusion drug was infused. In the meantime, starting in 2019 our legislation set a specific rate if these services are provided in connection with a home infusion, and reimbursement is to be made for each day the beneficiary receives an infusion. The legislation is clear that the “nursing services” are a subset of “professional services,” and we made reference to nursing services to clarify that they were not to be separately billable from the other professional services.

We also strongly urge that CMS develop a definition of professional services that is unique to home infusion and not based on another site of care in the Medicare program. This definition will guide the rate setting process for the permanent home infusion services reimbursement and will ensure adequate reimbursement for home infusion starting in 2021.

We look forward to working with you to roll out this vital legislation and make sure Medicare beneficiaries have access to home infusion.

Sincerely,

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Johnny Isakson  
United States Senator

A handwritten signature in blue ink, appearing to read 'Mark R. Warner', written over a horizontal line.

Mark Warner  
United States Senator