

RALPH M. HALL
4TH DISTRICT, TEXAS

2405 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4304
(202) 225-6673
(202) 225-3332 FAX
e-mail: rmhall@mail.house.gov

Congress of the United States
House of Representatives
Washington, DC 20515-4304

February 4, 2014

COMMITTEE ON
ENERGY AND COMMERCE
SUBCOMMITTEE ON ENERGY AND POWER
SUBCOMMITTEE ON ENVIRONMENT
AND THE ECONOMY

COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY
CHAIRMAN EMERITUS
SUBCOMMITTEE ON ENERGY
SUBCOMMITTEE ON SPACE

The Hon. John Boehner
Speaker of the House
U.S. Capitol, H-232
Washington, D.C. 20515

The Hon. Nancy Pelosi
House Minority Leader
235 Cannon House Office Bldg.
Washington, D.C. 20515

Dear Mr. Speaker and Minority Leader:

We are writing to urge Leadership and the Committees of Jurisdiction to postpone a recent Centers for Medicare and Medicaid Services (CMS) Final Rule related to home health services as soon as possible. If this rule is not postponed and appropriately evaluated, according to CMS projections almost half of the home health industry will be paid less than their costs. Current industry data shows that as many as 73% of home health agencies across the country could be out of business when the rule is fully implemented.

This summer over 140 Members of the House of Representatives, the majority of the Senate, dozens of stakeholders among beneficiary advocacy organizations (including AARP), and tens of thousands of seniors and caregivers wrote to CMS to encourage CMS to reconsider the proposed Prospective Payment System (HHPPS) rule for home health.

The Final Rule was released on November 22nd and clearly does not take into consideration the appeals made by the U.S. Congress and interested stakeholders. The Final Rule unnecessarily rebases payment rates at the maximum cut permitted under the Affordable Care Act: a cut of -3.5% per year over each of the next 4 years, totaling an unprecedented cut to Medicare home health funding of 14% by 2017. CMS ignored requests to evaluate or consider the impact on access to care for the over 47 million Medicare beneficiaries who may need home health care. For example, CMS did not consider any of the available alternative methods of rate rebasing that would have ensured continued access to care while conforming to its legal obligations. In addition CMS did not fully assess the impact of rebasing on beneficiaries and small business for the entire 4 years (2014-2017) in which it is to take effect.

Urgent action is needed as the Final Rule took effect January 1, 2014. Home health plays an essential role in our health care system by serving the Medicare population with skilled nursing and habilitation services in the least costly setting – the home, and it is imperative that we protect access to care through informed and reasonable rulemaking.

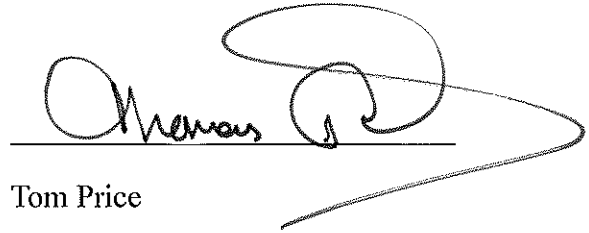
The home health community has offered a fully offset suggestion that would require CMS to re-evaluate the methodology for home health rate rebasing taking into consideration all factors relevant to maintaining access to care, and would require a report to Congress on the re-evaluation. We fully support this approach and urge Leadership and others to consider and include this fully offset proposal as soon as possible.

Attached please find the proposal by the greater home health community and thank you for your prompt consideration.

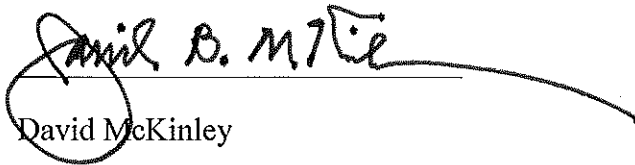
Sincerely,



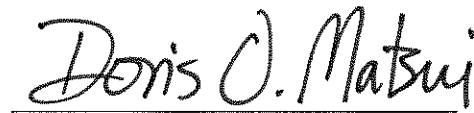
Ralph M. Hall



Tom Price



David McKinley



Doris O. Matsui

Cc: CMS

Cc: Committees of Jurisdiction

Attachment

1 SEC. ____ . ONE-YEAR POSTPONEMENT OF THE REBASING
2 OF MEDICARE HOME HEALTH PROSPECTIVE
3 PAYMENT AMOUNTS.

4 (a) POSTPONEMENT.—Section 1895(b)(3)(A)(iii) of
5 the Social Security Act (42 U.S.C. 1395fff(b)(3)(A)(iii))
6 is amended—

7 (1) in subclause (I), in the first sentence, by
8 striking “subclause (II)” and inserting “subclauses
9 (II) and (III)”;

10 (2) in subclause (II), in the first sentence, by
11 striking “The Secretary” and inserting “Subject to
12 subclause (III), the Secretary”; and

13 (3) by adding at the end the following new sub-
14 clause:

15 “(III) SPECIAL RULE.—Notwith-
16 standing subclauses (I) and (II), the
17 adjustment under subclause (I) for—

18 “(aa) 2014 shall be 0 per-
19 cent; and

20 “(bb) 2015 shall be 2 times
21 the adjustment that would have
22 applied for 2015 under subclause
23 (I) if this subclause had not been
24 enacted.

1 Nothing in this subclause shall affect
2 adjustments to be applied for years
3 after 2015.”.

4 (b) REVISION OF HOME HEALTH OUTLIER ADJUST-
5 MENT.—Section 1895(b)(5)(A) of the Social Security Act
6 (42 U.S.C. 1395fff(b)(5)(A)) is amended, in the second
7 sentence, by inserting “(or, in the case of 2014 through
8 2023, 2.0 percent)” after “2.5 percent”.

9 (c) STUDY AND REPORT.—

10 (1) STUDY.—

11 (A) IN GENERAL.—The Secretary of
12 Health and Human Services, in consultation
13 with representatives of Medicare home health
14 agencies and beneficiaries, shall conduct a study
15 on alternative methods for determining the ap-
16 propriate adjustment under section
17 1895(b)(3)(A)(iii) of the Social Security Act
18 (42 U.S.C. 1395(b)(3)(A)(iii)), including meth-
19 ods offered by stakeholders. Such study shall
20 include an analysis of —

21 (i) the impact of the adjustment on
22 beneficiary access to care;

23 (ii) the number and share of home
24 health agencies that are projected to expe-
25 rience negative Medicare margins by 2017,

1 including the location, size and type of
2 such agencies;

3 (iii) with respect to home health agen-
4 cies described in clause (ii)—

5 (I) the total number, average
6 age, average income, and average
7 number of activities of daily living of
8 the Medicare beneficiaries such agen-
9 cies currently serve;

10 (II) the number and location of
11 counties in which such agencies serve
12 as the sole provider of Medicare home
13 health services; and

14 (III) the payer mix of such agen-
15 cies; and

16 (iv) other areas determined appro-
17 priate by the Secretary.

18 (B) REQUIREMENT FOR ALTERNATIVE
19 METHODS.—The alternative methods described
20 in subparagraph (A) shall cover each of the
21 years in which the rebasing adjustment under
22 such section 1895(b)(3)(A)(iii) is to be applied.

23 (2) REPORT.—Not later than June 30, 2014,
24 the Secretary of Health and Human Services shall
25 submit to Congress a report on the study conducted

1 under paragraph (1), together with such rec-
2 ommendations as the Secretary determines appro-
3 priate.