



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

APR 14 2011

The Honorable Sander Levin
Ranking Member
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Ranking Member Levin:

We received your letter today requesting our assessment of the impact of the enactment of House Concurrent Resolution 35 (H.Con.Res.35) on Medicare, Medicaid, and the other affected health programs at the Department of Health and Human Services. We have not yet had an opportunity to fully evaluate the extensive impact that the language of the resolution would have, but offer a few initial observations.

As you know, the Affordable Care Act modifies and improves almost every Medicare payment system – including the inpatient hospital prospective payment system, the outpatient hospital prospective payment system, the physician fee schedule, Medicare Advantage plan payments, and prescription drug plan payments. If this resolution were enacted, the Centers for Medicare and Medicaid Services (CMS) would not be able to use any funds to carry out these payment provisions based on any rate calculated on the basis of provisions of the Affordable Care Act – which is to say virtually all rates.

In a system in which millions of claims are paid each week, millions of claims would accumulate, which CMS and its contractors would be prohibited from paying. As a result, providers and suppliers of services to Medicare beneficiaries – many of which are small businesses – would experience significant disruption.

H.Con.Res.35 would adversely affect health care in rural areas as well. As an example, as a means to encourage physicians to provide services in rural areas, the Affordable Care Act established a new 10 percent bonus payment for primary care services furnished by primary care practitioners and for major surgical procedures furnished by general surgeons in shortage areas. Without available funding, CMS would no longer be able to provide the bonus to primary care and general surgery physicians for eligible services.


The Affordable Care Act also gives CMS new tools to fight fraud and helps us move from a pay-and-chase system to a comprehensive prevention-focused strategy. By precluding the use of funds for such efforts, H.Con.Res.35 would substantially impede CMS's proven and successful efforts to reduce fraud and waste in the health care system, resulting in increased erroneous

payments. H.Con.Res.35 would effectively require CMS to cease enforcing new screening and enrollment standards, diminish CMS's ability to suspend payments when credible allegations of fraud are uncovered, and reduce resources that have been made available for investments in anti-fraud work.

The Affordable Care Act also includes numerous other policies to make health care more affordable, accessible, and accountable for seniors, individuals with disabilities, children, and all other Americans, as well as businesses large and small. Its improvements are already woven into the fabric of our health care system. A broad prohibition on the use of funds would halt, among other things, the operation of the Early Retiree Reinsurance Program, the Pre-existing Condition Insurance Plan, and the health insurance rate review, consumer assistance, and health insurance Exchange grant programs.

I hope this information is helpful. We would be pleased to answer any additional questions you may have. I have sent an identical letter to Ranking Member Waxman.

Sincerely,



Kathleen Sebelius