Partnership for Quality Home Healthcare

THERE'S NO PLACE LIKE HOME

February 16, 2017

The Honorable Tom Price
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Secretary:

The Partnership for Quality Home Healthcare (the "Partnership"), a national coalition of skilled home healthcare providers dedicated to ensuring the quality, efficiency, and integrity of the Medicare home healthcare benefit for homebound seniors and disabled Americans, appreciates the President's commitment to reduce burdens imposed by federal rules and regulations on healthcare providers and the patients we serve. We believe the President's Executive Order, "Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal," issued on January 20, 2017, serves as an important first step to help alleviate barriers that interfere with patient care. We appreciate this opportunity to discuss specific burdensome home healthcare rules that fall under this Executive Order, and the Memorandum to the Agencies by the White House Chief of Staff regarding regulations that were published recently or have an effective date after January 20, 2017.

In the spirit of open and transparent communication, we encourage the Administration to evaluate the Medicare home healthcare benefit in the context of the value it brings to patients and taxpayers. There has been certain regulatory overreach of the government from the regulations either expressly provided for, or derived under, the Affordable Care Act ("ACA") which have inhibited beneficiaries and taxpayers from realizing this value. Home healthcare is a valued benefit by our patients – care delivered in their own home by trained experts working to improve their health and well-being. In addition, at a time when our country is grappling with the federal debt, permitting patients to receive care in more cost-effective, clinically appropriate settings will assist in achieving substantial Medicare savings.

The value proposition of home care is real. It can work to prevent costly hospitalizations and re-hospitalizations, and plays an important role in providing chronic care management. The home is the cost-effective setting that patients and their families prefer, and we look forward to working with this Administration to create workable solutions to preserve this important benefit.

Review of Regulatory Activities

We seek your help in reviewing all regulations in place, guidance issued and demonstrations undertaken that undermine the ability of Medicare beneficiaries to benefit from quality home health services. In particular, we are writing to urge the Administration to help alleviate the burdens imposed on healthcare providers and our patients. The following policies are either areas where the Administration can follow through on the goals of the President's Executive Order or the Chief of Staff's Memo:

- **Revision or Withdrawal of Administratively Burdensome and Ineffective Regulations**

The Pre-Claim Review Demonstration Should Be Discontinued before April 1 When it is Scheduled to be Expanded into Florida. In the ACA, Congress added an eligibility requirement for home health beneficiaries that required a face-to-face encounter with the physician that certifies the patient's eligibility. While Congress only required proof that a face-to-face encounter occurred, CMS promulgated regulations that require Home Health Agencies ("HHAs") to collect paperwork documenting eligibility criteria from physicians that often necessitates multiple attempts. CMS made the problem worse and created a volatile and onerous Pre-Claim Review Demonstration ('PCRD"), a process requiring 100% review of 100% claims relating to eligibility criteria generally. **It did so without a formal rulemaking process.** In addition, this program was developed to reduce error rates – however, in the existing demonstration being conducted in Illinois, more than half of the patient episodes that are subject to the program have failed to have a pre-claim review packet and subsequent final claim submitted. While CMS has reported affirmation rates of over 90%, this excludes the majority of patient episodes that have occurred and is thus an incomplete and unreliable statistic-greatly overstating the real affirmation rate realized to date.

Imposing the complex requirement of obtaining documentation that is generally within the physician's medical record and applying a subjective determination of its accuracy puts the government directly between patients and their physicians and home healthcare providers and have resulted in significant costs to everyone involved, including CMS. Reevaluating the face-to-face requirements and other eligibility documentation fits squarely within the President's Executive Order and the immediate withdrawal of the PCRD can be accomplished by a directive from the Secretary. **We have recommendations about how to improve physician and home health agencies eligibility criteria and would appreciate the opportunity to discuss these options in an open and transparent way.**

Modifications of the Case Mix Adjustment Under Section 3131 Should Undergo Transparent Review to Ensure Positive Outcome for Patients in the Use of Home Health Resources. The ACA directs CMS to "conduct a study on HHA costs for providing ongoing access to care to low-income Medicare beneficiaries in medically underserved areas, and beneficiaries with high levels of severity of illness." In December 2016, CMS released its Home Health Grouping Model ("HHGM") that may result in a large scale payment

methodology change. We believe that potentially large scale changes to the payment methodology should be evaluated carefully, with full transparency and engagement by providers and patients to ensure the changes do not affect care and reflects patient clinical and financial needs.

- **Additional Time Needed for Implementation**

Conditions of Participation Final Rule Should be Delayed and Evaluated for its Potential Burden on Home Health Agencies and their Patients. Consistent with the Memorandum sent by the White House Chief of Staff, the Administration should reevaluate the Conditions of Participation for Home Health Agencies Final Rule ("CoPs") which were the first new CoPs for home health agencies in nearly 20 years. These far-reaching and costly changes were finalized one week before the new Administration came into office and such changes necessitate furnishing the home health industry with twelve months to implement these changes from the date CMS issues its interpretative guidelines of the new CoPs to the state surveyors. **We would appreciate the opportunity to discuss these rules and provide some suggested alternatives that would improve the current CoPs and create greater value for our patients.**

We greatly appreciate the flexible approach outlined in the Memorandum to agencies to minimize the regulatory burdens. The Medicare home healthcare benefit is ideally suited to support the Administration's efforts to instill a greater focus on value throughout the Medicare program, but the PCRD, face-to-face and other eligibility requirements, and components of the CoPs run counter to this effort and should be addressed. We urge the Administration to evaluate the impact of these requirements and all payment reductions and costly regulatory burdens. Your goal to limit any future payment changes or burdens without an open and fully transparent process where data and analysis is shared in advance with providers and patients is one we share and welcome. We are ready to work with the Administration to find effective solutions to maintain access, program integrity, and high quality in the home health benefit.

We are proud to be part of a sector that has long been recognized for its skilled caregivers and dedicated administrators. Every day, home health professionals go into communities – including those with high poverty, with a history of violence, or which are rural and difficult to access – in order to meet the specialized needs of seniors and disabled Americans who would otherwise be hospitalized or institutionalized. We are proud of our daily efforts to improve outcomes and reduce costs.

We stand ready to work with you to ensure that the Medicare program delivers its beneficiaries with a valued service and quality care. We look forward to working with the Administration and being a partner in finding common sense, practical solutions to the problems facing our healthcare system.

Sincerely,

Keith Myers
Chairman