

United States Senate  
WASHINGTON, DC 20510

February 15, 2024

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Administrator Brooks-LaSure,

We write to you to share our concerns about the feedback we are hearing from our states, state associations, payors, providers, MACPAC, and other stakeholders regarding the HCBS payment adequacy proposal in the proposed Ensuring Access to Medicaid Services rule (CMS-2442-P).

Home care, home health, and homemaker services funded by Medicaid's home and community-based services (HCBS) program to support seniors and people with disabilities are core to our healthcare system, as is the frontline workforce that dedicates their careers to enabling people to remain in their communities with their family and loved ones. We are proud of the hard work that our states have done to continuously improve these services and the wages for this essential frontline workforce. While the HCBS payment adequacy proposal in the proposed rule attempts to create a blanket approach to require 80% of all reimbursement for the services to go to frontline worker payments, we have significant concerns that the proposal could and will likely harm access for seniors and people with disabilities, particularly in rural regions of the country as well as harm workforce retention and provider networks.

As we have been reviewing comments to the proposed rule and hearing feedback from our constituents, we have had mounting apprehension about the payment adequacy proposal as states throughout the country have shared that mandating a threshold for these HCBS services would cause dire impacts for the provider system. States have outlined in response to CMS that access to services for beneficiaries will be immediately impacted by this proposal, that rural and small providers will face some of the greatest challenges, that the requirement would create more Medicaid imbalance between states through a universal requirement as it disregards variability in waivers and rates, and that states do not have the resources to incur the significant costs of this proposal, which would create shortfalls for state budgets.

We are similarly very concerned that CMS has not offered data to the public or states to support the broad 80% payment proposal. States, in their responses to the Agency, have urged CMS not to move forward with the proposal and first fully assess the impact of the requirement on Medicaid costs and beneficiary access to care. For instance, CMS has not provided any analysis on the impact of not including training or travel costs in the 80% requirement, which are

significant costs for this health care sector, particularly in rural geographies. Further, as an unintended consequence, the blanket application of the 80% requirement could require states that currently pay higher wages and have stronger reimbursement rates to make deeper cuts in their programs to comply. **There has been no official data analysis of how this proposal would impact the Medicaid system, and payors and states alike have flagged that they expect it will harm provider networks and beneficiary access.** Further, the proposed payment adequacy proposal would define the direct care workforce, which will have far-reaching implications beyond this proposal. MACPAC, in their response to the Agency, encouraged CMS to work with other federal agencies and stakeholders to consider the implications of defining that workforce, including for data and overall payment purposes.

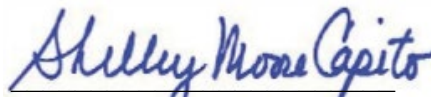
In light of the many urgent concerns that we are hearing from our states and stakeholders, we respectfully request that CMS not move forward with the HCBS payment adequacy proposal in the proposed rule and that CMS:

- 1) Collaborate with states and stakeholders as well as federal resources like MACPAC to assess Medicaid data on payment rates to home care, home health, and homemaker services and the potential impact of the HCBS payment adequacy proposal on access to beneficiaries, provider networks, workforce outcomes, and state operations.
- 2) Work with MACPAC to implement the recommendation to create a stakeholder and interagency evaluation of the impacts on payment, data, and other outcomes of defining the direct care workforce.

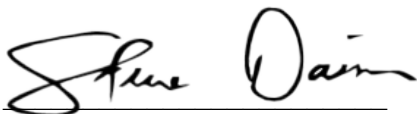
Sincerely,



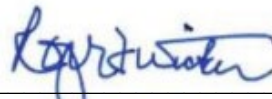
Marsha Blackburn  
United States Senator



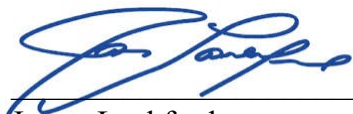
Shelley Moore Capito  
United States Senator



Steve Daines  
United States Senator



Roger Wicker  
United States Senator



James Lankford  
United States Senator



Markwayne Mullin  
United States Senator



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Thom Tillis  
United States Senator



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Dan Sullivan  
United States Senator



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Tim Scott  
United States Senator



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John Thune  
United States Senator



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Ted Budd  
United States Senator