March 20, 2014

Marilyn Tavenner, Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Ms. Tavenner:
The Affordable Care Act (ACA) included new qualifying criteria for Medicare home health services requiring that a beneficiary have a face-to-face (f2f) encounter with a physician in order for home health services to be covered. The undersigned organizations representing home health care professionals and physicians are very concerned that CMS’s regulations to implement this requirement are overly burdensome, contrary to Congressional intent and will ultimately serve as a barrier to patients receiving necessary home health care.

While the ACA states simply that a physician must document that a face-to-face encounter has occurred, the more detailed CMS rule requires an extensive narrative from the certifying physician. This narrative must include why the patient specifically meets Medicare coverage standards, why the encounter is related to the need for home health care services and the clinical findings from the encounter. It is important to underscore that we understand and support the need for documentation. Our concern is that the regulation requires an extensive narrative for documentation purposes.

This requirement is excessive and redundant given that this information is already contained in the home health clinical record as part of the care plans, which also provide detailed evidence to support physician certification of homebound status and medical necessity.

We also believe the regulation’s requirement for a detailed narrative undermines and conflicts with the growing use of the Electronic Medical Records, supported by CMS, which by definition are intended to streamline documentation. These requirements for a detailed narrative are not included in the ACA, and go far beyond Congressional intent. They have added unnecessary burdens to all parties involved.

Since the March 2011 implementation date, the documentation requirements as originally proposed have been amended, interpreted and reinterpreted in various forums such as Federal Register notices, policy manuals, MLN Matters articles, and Open Door forums. This has only increased confusion, especially among physicians, and has led to a convoluted process that is difficult to manage.

Two years into the implementation of this rule, we find that the rule:

- Is overly complicated, burdensome and redundant, putting an unnecessary strain on both home health and physician practice resources.
• Is creating volumes of medical review. Data released by one MAC (Palmetto GBA) indicated that almost 50% of all home health payment denials for one quarter were related to the f2f requirement. In almost all of the cases causing denials, the face to face encounter has happened and only the narrative is at issue

• Is straining, rather than improving, the relationships between physicians and home health agencies as many physicians are finding it difficult to comply with what they perceive as redundant and excessive documentation requirements.

The Home Care Alliance of Massachusetts, the Massachusetts Medical Society - representing 24,175 physicians – and the undersigned physicians and physician practices – representing another 1,400 physicians – are united in their resolve to seek some reasonable accommodations from CMS with regard to this rule. We would like to work with the agency to develop documentation requirements that meet the intent of the ACA and that are also easily implemented in the physicians’ offices and adaptable for those using electronic medical records.

We would respectfully request a meeting to explore the following changes, all of which we believe are within CMS’ authority to implement:

• Delete the requirement for a narrative documentation explaining why the clinical findings of such encounter support that the patient is homebound and in need of either intermittent skilled nursing services or therapy service.

• Develop a universal CMS-approved form, such as the 485 form/plan of care, which is already familiar to physician.

• Eliminate the Face-to-Face Requirement for post-acute care patients given that a physician would have seen the patient immediately prior to home health (as required by the law and the intent of Congress)

• Reeducate the MAC’s to avoid the current high percentage of denials on technical grounds

We appreciate your attention to this and look forward to working toward a reasonable resolution.

Sincerely,

Beverly Pavasars
President
Home Care Alliance of Massachusetts

Ronald Dunlap, MD, FACC
President
Massachusetts Medical Society

Marci Sindell
Chief External Affairs Officer
Atrius Health

Joseph D. Alviani, Esq.
Vice President for Government Affairs
Partners Health Care
Supporters:

- Bob Ingala, President & CEO, Greater Lawrence Family Health Center – Methuen
- John Sarro, Executive Director, Pentucket Medical Associates
  - Locations in Newburyport, Georgetown, Haverhill, North Andover and Lawrence.
- Dr. Laura Knobel, Medical Director, Walpole Area VNA – Walpole
- Dr. Jennifer Brinckerhoff, Hebrew Senior Life at Orchard Cove – Canton
- Kim Hollon, President and CEO, Signature Healthcare – Brockton
- Dr. Robert Wespiser, Medical Director, Porchlight VNA/ Suburban Internal Medicine – Lee
- Dr. Edward Weiner, Fairview Internal Medicine – Great Barrington
- Marci Sindell, Chief External Affairs Officer, Arius Health on behalf of:
  - Dedham Medical Associates – Dedham
  - Granite Medical Group – Quincy
  - Harvard Vanguard Medical Associates
  - Reliant Medical Group
  - Southboro Medical Group
    - Locations in Southboro, Milford, Framingham, Westborough.
  - South Shore Medical Center – Norwell
  - VNA Care Network & Hospice
- Dr. Gregory Robke, Plymouth Bay Internal Medicine – Plymouth
- Dr. Mark Eubanks, Dr. Puja Myne, Dr. Donald Moore Jr, Dr. M Frederick Northrop, Dr. Samson Haile Hanka, & Nancy Peroni, NP., PMG Physician Associates – Plymouth
- Dr. Steven H. Stein, Medical Director, Community VNA Hospice Care – Attleboro
- John Harrington, MD; Davis Havlin, MD; Kavitha Kayathi, MD; Eliot Nottleson, PA; Megan Tracy, NP-C, on behalf of Heywood Winchendon Health Center - Winchendon
- Dr. Virginia Cummings, Epoch of Chestnut Hill - Newton
- Dr. Stuart Pollack, Brigham &Women’s Advanced Primary Care Associates – Jamaica Plain
- Dr. Mark Yurkofsky, Spaulding Nursing & Therapy Center – West Roxbury
- Dr. Richard Marquis & Dr. Gerald Muldoon, Marian Manor Skilled Nursing Facility – South Boston
- Dr. Lauraine Davidson, Coolidge House Skilled Nursing Facility – Brookline
- Dr. Katherine Sakmar, MGH -Revere Health Center – Revere
- Dr. Steve Bensson & Dr. Jean Siddall-Bensson, Attleboro Medical Associates – Attleboro
- Dr. Brian Kelly, Sturdy Memorial Hospital (Emergency Care) – Attleboro
- Dr. Colleen Yavarow, Sturdy Hematology & Oncology Associates – Attleboro
- Dr. Hassan Arif, MACU/Hebrew Senior Life – Roslindale
- Dr. Sonal Mankodi, Dr. Paul Nemeskal & Dr. Navid Mahooti North Shore Physician Group – Danvers
- Dr. Laila Akhund, Brigham & Women’s Primary Care – Foxborough
- Dr. Terrence A. O’Malley, Attending Physician, Massachusetts General Hospital – Boston
• Dr. James Berry, physician, Massachusetts General Hospital /ALS clinic-Neuro Clinical Trials-Boston
• Dr. Dean Xerras & Dr. Judith Fisch, Massachusetts General Hospital -Chelsea Health Center – Chelsea
• Dr. Ronald Rosen, North Shore Physician Group - Salem
• Dr. Natasha Shah, Dr. Tejal Patel, & Dr. Vidya Raju, North Shore Physician Group – Saugus
• Dr. Susan Moynihan, North Shore Physician Group – Marblehead
• Dr. Irving Ingraham, North Shore Physician Group – Peabody
• Dr. Mark Messenger, Independent Practitioner – Swampscott
• Dr. David W. Chen, Medical Director, German Center Skilled Nursing Facility / Faulkner Hospital Internal Medicine – West Roxbury
• Dr. John A. Lewis, Medical Director, Brigham &Women’s Faulkner Community Physicians at West Roxbury – West Roxbury
• Dr. Mark Solomon, Medical Director, Brigham & Women’s Primary Care Associates of Brookline – Brookline
• Dr. Sanjeet Narang & Dr. David Janfaza, Anesthesia and Pain Management, Brigham & Women’s Hospital Pain Center – Chestnut Hill
• Dr. Lori Tishler, Medical Director, Brigham & Women’s Hospital -The Phyllis Jen Center for Primary Care – Boston
• Dr. Ronald L. Warner, Internal Medicine/Adult Primary Care, Brigham &Women’s Faulkner Community Physicians at Hyde Park – Hyde Park
• Dr. Edgar Ross, Vice Chair of Pain Management, Brigham &Women’s Hospital – Boston