



Administrator
Washington, DC 20201

JAN 22 2014

The Honorable Tom Reed
U. S. House of Representatives
Washington, DC 20515

Dear Representative Reed:

Thank you for sharing the concerns of hospice providers regarding recent Centers for Medicare & Medicaid Services (CMS) guidance addressing payment responsibility under Medicare for prescription drugs for beneficiaries enrolled in hospice. You state that CMS should work collaboratively with Part D sponsors and hospice communities on how best to achieve shared policy goals, and you express concern regarding the effect our guidance would have on hospice providers nationwide.

In the letter, you specifically raise concerns that CMS's instructions to Part D sponsors to recover Part D payments for pain medications for hospice beneficiaries identified as duplicate payments represents a significant policy change. You further express concerns about a CMS December 6, 2013, memorandum titled, "Part D Payment for Drugs for Beneficiaries Enrolled in Hospice—Request for Comments." You state that the memo signals CMS's intent to require hospices to cover virtually all medications, and to suggest that Part D sponsors use a prior authorization process to identify the rare occasions that a beneficiary would be prescribed a medication not covered by the hospice per diem.

We agree that CMS should work collaboratively with Part D sponsors and hospice communities to achieve shared policy goals that are consistent with current federal law. Accordingly, we issued the December 6 memorandum for industry review and comment. During the 35-day comment period, we held discussions with stakeholders to listen to their concerns and respond to questions. We will consider all the stakeholder comments received as we finalize the guidance for 2014 and undertake our Medicare hospice rulemaking for 2015.

Regarding your assertion about the effect of our guidance on hospice providers, we note that the December 6 memo summarized current CMS hospice policy and clarified guidance for Part D sponsors. Thus, we reiterated our view, as discussed in the 1983 regulation implementing the hospice benefit, that when an individual is terminally ill, many health problems are brought on by underlying conditions, as bodily systems are interdependent. We also stated that the original intent of the Medicare hospice benefit was to have a Medicare benefit available that provides virtually all-inclusive care for terminally ill individuals, which includes pain relief and symptom management. Based on the holistic nature of the benefit, as a general rule, our expectation is that the hospice providers will cover virtually all drugs for hospice beneficiaries during the hospice election.

As we finalize our guidance and undertake Medicare hospice rulemaking for fiscal year 2015, we are instructing Part D sponsors to follow prior CMS's instructions concerning the denial of Part D payments for pain medications for hospice beneficiaries. We disagree that this represents a departure from longstanding CMS policy. This recovery effort is exclusively related to prescriptions for analgesics. Thus, we do not think it is unreasonable to presume that all the drugs were used for the palliation and management of the terminal illness and/or related conditions.

Thank you, again, for sharing your concerns with us. Please do not hesitate to contact me with further thoughts or concerns. I will also provide this response to the co-signers of your letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Marilyn Tavenner", with a large, sweeping flourish at the end.

Marilyn Tavenner