primary care collaborative

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PCC Opposes H.R. 5741; Calls to Protect CMMI's Ability to Advance Value-Based Models for Medicare Beneficiaries

March 6, 2020

The Honorable Frank Pallone
Chair
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Greg Walden
Ranking Member
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Richard Neal
Chair
Ways and Means Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin Brady
Ranking Member
Ways and Means Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable James McGovern
Chair
Rules Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Tom Cole
Ranking Member
Rules Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Pallone, Neal, and McGovern, and Ranking Members Walden, Brady and Cole,

CMMI as an Essential Innovator

The Primary Care Collaborative (PCC) is a multi-stakeholder coalition that works to advance primary care as the foundation of a high-value health system. Our diverse members—spanning patient groups, health plans, employers, specialty societies, and health systems—all recognize the importance of shifting our health system towards value: incentivizing patient outcomes over volume of services.

We believe that the Center for Medicare and Medicaid Innovation (CMMI) plays a critical role in testing and deploying new Alternative Payment Models (APMs) that aim to improve health outcomes and lower costs. The Innovation Center's primary care offerings to-date, including the Comprehensive Primary Care (CPC) initiative, its successor CPC+, the Next Generation ACO model, Direct Contracting, and the Primary Care First program, have and will contribute to our understanding of how to pay ambulatory practices in ways that support transformation towards

better care, better outcomes, and lower total cost. Often, the impact of these models—implemented by the nation's largest payer—extends far beyond Medicare, as commercial payers and states follow suit. In short, CMMI's role as an innovation test bed is essential to making significant progress in the reform of US health care payment and delivery.

Yet, the proposed legislation H.R. 5741 "Strengthening Innovation in Medicare and Medicaid Act" risks weakening CMMI's ability to effectively carry out this leadership role. PCC is particularly concerned with three aspects of the bill: the introduction of congressional approval and judicial review; its overly prescriptive model parameters; and the unnecessary administrative burden it creates.

H.R. 5741 Risks Politicizing CMMI Models

First, and most concerningly, H.R. 5741 introduces the opportunity for Congress to disapprove of a CMMI model at several points—"testing, expansion, or modification"—by passing a joint resolution within 45 days of receiving a proposal. At best, this process adds burden and time to CMMI's ability to roll out or scale new models by requiring the creation of detailed reports to Congress and adding delays for review periods; at worst, it provides an avenue for special interests to politicize the Innovation Center's work by allowing Congress to directly stop the roll-out of models. Similarly, the bill also introduces judicial review "as may be necessary to enforce requirements" of this act, and removes current limitations on review of model elements, parameters, scope and duration for both testing and dissemination. Such judicial review is intentionally limited in the current Social Security Act (Section 115A(d)(2)) to allow CMMI to agilely test APMs. The proposed language in H.R. 5741 opens the door for legal actions by special interest groups with the goal of delaying or stopping implementation of models that may go against their interests.

Innovation May be Hampered by Restrictive Parameters & Administrative Burden

Second, the bill adds overly prescriptive model parameters that we believe may add more detriment than value. It instructs CMMI to offer potentially open-ended waivers "from any requirement of a model" due to economic hardship to providers/suppliers, and it limits participation in testing models to "no more applicable individuals than necessary to obtain a statistically valid sample." Such changes are concerning as much of the positive impact of Innovation Center models stems from their scale. For example, the participation of over 2,850 primary care practices in CPC+ contributed to attracting 55 aligned payers. PCC believes that CMMI staff, with public input, are best-positioned to determine model scope and duration parameters, rather than acts established by Congress. This allows them to flexibly deploy and adapt models to meet beneficiary needs.

Third, the bill inserts unnecessary process steps that could lead to more administrative burden and slow implementation timelines. Under H.R. 5741, CMMI would need to report annually

(rather than biennially) to Congress on innovation models, their evaluations, and recommendations for legislative action. Given the time involved in transforming payment and delivery, PCC does not think that annual evaluation makes sense, and we are concerned with the administrative burden and costs that would result for both practices and the Federal government. CMMI would also be required to consult with prescribed experts within federal government and others with certain areas of expertise. The bill compels *additional* opportunities for stakeholder input including advance public notice that describes and defines "the standards, criteria, and processes that the Secretary will use for selecting and evaluating" the model at all stages and how the conditions set forth in Social Security Act section1115A(c) have all been met. PCC welcomes both expert consultation and public comment; however, CMMI already incorporates both when launching new models. Moreover, any expansion of a model into Medicare would still follow a formal rulemaking process.

Our Primary Concerns Outweigh the Bill's Welcome Elements

Taken individually, several elements in the bill are commendable. PCC supports the overarching principles of accountability and transparency in all federal programs. We also appreciate the bill's explicit emphasis on vulnerable and under-served populations in several provisions, including assessing the impact of delivery and payment models on health disparities. The repeal of the Medicare Duplication Prohibition is also welcome, as long as it does not undermine the ability of CMMI to evaluate a given model. This change will allow primary care practices to participate in more than one APM and encourage the proliferation of models.

Still, the sum of these elements do not outweigh the principal force of this bill: the addition of unneeded requirements and oversight that will hamper, if not fully block, CMMI's ability to flexibly and speedily deploy new payment models that enhance the quality of care delivered to Medicare and Medicaid beneficiaries. PCC urges your committees to not proceed with H.R. 5741.

Thank you for the opportunity to share the Primary Care Collaborative's perspective on the proposed legislation. Please be in touch with Sarah Greenough at sgreenough@pcpcc.org if you have questions or if we can share any additional information related to our outlined concerns.

Sincerely,

Ann Greiner
President & CEO
Primary Care Collaborative

PCC Executive Members

Below is a list of the Primary Care Collaborative's executive members that pay dues to the organization and support its mission. Membership does not indicate explicit endorsement of this letter.

Accreditation Association for Ambulatory Health Care (AAAHC)
Alzheimer's Association
American Academy of Child and Adolescent Psychiatry (AACAP)
American Academy of Family Physicians (AAFP)
American Academy of Pediatrics (AAP)
American Academy of PAs (AAPA)
American Association of Nurse Practitioners (AANP)
American Board of Family Medicine Foundation (ABFM Foundation)
American Board of Internal Medicine Foundation (ABIM Foundation)
American College of Clinical Pharmacy (ACCP)
American College of Lifestyle Medicine (ACLM)
American College of Obstetricians and Gynecologists (ACOG)
American College of Osteopathic Family Physicians (ACOFP)
American College of Physicians (ACP)
American Osteopathic Association (AOA)
American Psychiatric Association Foundation
American Psychological Association
America's Agenda
Anthem
Bess Truman Family Medical Center
Black Women's Health Imperative (BWHI)
Blue Cross Blue Shield Michigan
Blue Cross Blue Shield of North Carolina
CareFirst BlueCross BlueShield
Collaborative Psychiatric Care
Community Care of North Carolina
Community Catalyst
CVS Health
Doctor on Demand
Geisinger Health
Harvard Medical School Center for Primary Care
HealthTeamWorks
Humana, Inc.
IBM
Innovaccer
Institute for Patient and Family-Centered Care (IPFCC)
Johns Hopkins Community Physicians, Inc.
Johnson & Johnson
Mathematica
Mental Health America
Merck & Co.

Morehouse School of Medicine - National Center for Primary Care
National Alliance of Healthcare Purchaser Coalitions
National Association of ACOs (NAACOS)
National Coalition on Health Care
National Interprofessional Initiative on Oral Health (NIIOH)
National PACE Association
NCQA
Pacific Business Group on Health (PBGH)
Pediatric Innovation Center
Permanente Federation, LLC
PCC EHR Solutions
Primary Care Development Corporation (PCDC)
Society of General Internal Medicine (SGIM)
Society of Teachers of Family Medicine (STFM)
SS&C Health
St. Louis Area Business Health Coalition
Takeda Pharmaceuticals U.S.A.
The Verden Group's Patient Centered Solutions
University of Michigan Department of Family Medicine
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