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January 31, 2020

The Honorable Alex Azar II
Secretary
U.S. Department of Health and Human Services (HHS)
200 Independence Avenue, SW
Washington, DC 20201

RE: Notice of Proposed Rulemaking Entitled, "Medicaid Program; Medicaid Fiscal Accountability Regulation," 84 Fed. Reg. 63722 (November 17, 2019)

I am writing to express grave concerns over the trifecta of Medicaid policies HHS is advancing. Medicaid is the first line of health defense for Americans with the lowest-incomes and for those who live in rural communities, yet each of these initiatives jeopardize state and local economies and health delivery ecosystems across the United States.

Taken alone, the Medicaid Fiscal Accountability Regulation (MFAR) would expose rural and safety net facilities (including hospitals and nursing facilities) to more financial uncertainty than they currently face, increasing the likelihood of closures and diminishing access to care. When considered alongside the Administration's push to cap support for Medicaid through block grants, and Administration efforts to drastically amend eligibility guidelines as proposed in the Fiscal Year (FY) 2019 budget, this is a tripartite attack that is exacting in its intention to decimate Medicaid. These proposals are a direct attack on the program that provides health security for more than 75 million Americans of all ages. I strongly urge you to abandon these policies and rescind the MFAR in favor of engaging in due diligence to assess impact on states.

As a partnership between states and the Federal government, current law and guidance respects state autonomy in funding Medicaid. Medicaid's long-standing State-Federal partnership recognizes State autonomy in managing the specifics of health financing and delivery in order to ensure their most vulnerable residents are receiving the best combination of services and supports. That is why I am certain the policies under consideration will upend the health care financing systems of each state and territory across the United States and jeopardize the nation's health care safety net.

The MFAR pretends to increase public transparency of supplemental payments to providers, but instead, the proposal hamstrings state efforts to support funding arrangements necessary for the

administration of Medicaid and the delivery of covered services. The proposal would dramatically alter longstanding policies that have historically allowed states to meet their cost obligations, stabilize safety net providers, and support graduate medical education. The MFAR also subjects states and providers to burdensome reporting requirements and draconian limits on supplemental payments, including Medicaid Disproportionate Share Payments (DSH), health care taxes, and provider donations.

These policies threaten the livelihoods of the health workforce, viability of public providers, and access to care for Medicaid beneficiaries across the nation. And because HHS is simultaneously taking three significant Medicaid actions, it is difficult – if not impossible – for states to prospectively assess and structure health financing. It is equally difficult for providers to ensure operational capacity to deliver and bill for services. HHS' actions pose imminent harm to beneficiaries, state governments, providers of health care and related services, and employees involved in Medicaid administration.

For context, a preliminary analysis suggests the MFAR alone could cost Massachusetts between $365 million and $2.6 billion per year – or between 2 percent and 14 percent of the total 2020 MassHealth and health reform budget.

Under the MFAR, Massachusetts would grapple with reducing or eliminating eligibility, access, and care for our most vulnerable residents while leaving countless others unemployed and in need of the very safety net these policies jeopardize. Seven federally funded safety net providers in the 1st Congressional District leverage $22.4 million in federal investments to serve over 106,000 patients at 38 delivery sites. These patients and facilities represent but a fraction of the 1.8 million people MassHealth subsidizes, and this federal funding stream pales in comparison to the $166.7 million for MassHealth administration budgeted in 2020 and $49.4 million slated for expanding treatment services for people struggling with addiction. But it is virtually impossible to assess the true impact of the MFAR and related policy changes HHS is advancing, and equally difficult for states to expand services to improve health outcomes as Massachusetts seeks to do for addiction treatment.

For the stability of state and local health financing systems, public hospitals, safety net providers, and vulnerable Medicaid beneficiaries, the Administration should abandon all three policies referenced in this letter. I strongly urge you to rescind the November 17, 2019 Notice of Proposed Rulemaking for the MFAR, and instead, develop a plan to collect information and analyze data from states and affected stakeholders before revisiting these policies.

Thank you for your attention to these concerns. Should you have questions, contact Amy Hall, Majority Staff, Committee on Ways and Means, at (202) 225-3625.

Sincerely,

Chairman Richard E. Neal
Committee on Ways and Means

Cc: Administrator Seema Verma
Centers for Medicare and Medicaid Services