United States Senate
WASHINGTON, DC 20510

February 22, 2018

Ms. Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, District of Columbia 20201

Dear Administrator Verma:

We are writing to express our continued opposition to the concepts unveiled and the process used in a Request for Information (RFI) regarding "a new direction" for the Center for Medicare and Medicaid Innovation (Innovation Center). While we appreciated the opportunity for staff to discuss our November 2017 letter on this topic with the Innovation Center's senior leadership and your response to a prior letter on the topic, we continue to urge you to provide clarity on the specific model types under consideration. We also request an affirmative response that you plan to make public the more than 1,000 comments submitted on the RFI.

In the RFI, CMS appeared to seek input on a possible model to restructure Medicare through a premium support or voucher program. We interpreted the RFI to mean that CMS is considering models that would fundamentally restructure the guaranteed benefit traditional Medicare provides to older adults and people with disabilities. Other Members of Congress, select journalists as well as patient and consumer advocates have expressed a similar interpretation and voiced concerns about the Innovation Center's intentions.

While we understand that the RFI does not explicitly mention the terms 'premium support' or 'voucher,' the ambiguity of the proposal allows for a variety of interpretations. We applaud your efforts to seek input on the Innovation Center's work, however, we are alarmed that you opted to solicit input on such an ambiguous concept. Absent further clarification, we do not believe Members of Congress, diverse stakeholders in the health care community, and the public were provided a sufficient opportunity to comment on the model concepts outlined in the RFI. In order to ensure meaningful external input is offered, we urge you to issue a formal comment opportunity outlining the specific model types the Innovation Center is exploring with respect to this topic. Importantly, if the agency is actively considering a 'premium support' or 'voucher' model, we urge you to make this abundantly clear.

Our concern is compounded by the fact that the proposals under consideration may not allow for Medicare beneficiaries to maintain choice and that beneficiaries may not have the ability to opt out of Innovation Center models. We are concerned about this premise, especially since we understand that providers will be allowed to opt out of such models, and request clarity on beneficiary involvement in current and future Innovation Center models. In addition, we request information on how people with Medicare are notified and educated about their involvement in Innovation Center models. Similarly, we would like further explanation on how the Innovation Center identifies core beneficiary protections, including opt-out mechanisms, and incorporates these policies into model design.

Additionally, we remain troubled by the Innovation Center's plans to develop and implement the payment model described in the RFI as "…allowing Medicare beneficiaries to contract directly with healthcare providers." As we previously indicated, we believe that a model built along these lines will result in higher out-of-pocket costs for beneficiaries, which would be inconsistent with the statutory authority of the Innovation Center. As noted in our prior letter, Congress enacted protections in Medicare to limit how much health care providers who accept Medicare payments can charge Medicare beneficiaries. We believe you are violating statutory requirements to safeguard older adults and people with disabilities from paying onerous out-of-pocket costs and going without needed health care.

Finally, we stress the importance of ensuring model development involves direct and ongoing engagement with consumer and patient advocates, health care providers, and other stakeholders through targeted comment opportunities, webinars, open door forums, technical expert panels, and individual outreach, among other strategies. This robust engagement necessitates publicly posting all comments received during the RFI comment period as well as any others the Innovation Center pursues. Again, we urge you to publicly post RFI comments instead of obfuscating regular process in order to withhold unfavorable comments from public view or decide against responding to certain comments. This practice would be detrimental to the 57 million Americans enrolled in Medicare and millions more now paying into the program. The absence of full transparency undermines the Innovation Center's efforts to improve quality of care and decrease health care expenditures.

We request a follow-up staff briefing addressing our continued concern no later than March 16, 2018. Thank you for your assistance in this matter.

Sincerely,

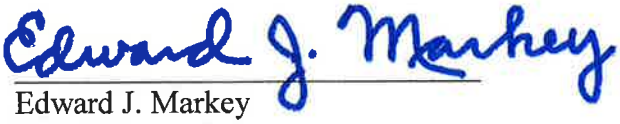
Robert P. Casey, Jr.
United States Senator

Bill Nelson
United States Senator

Sherrod Brown
United States Senator

Sheldon Whitehouse
United States Senator

Kirsten Gillibrand
United States Senator



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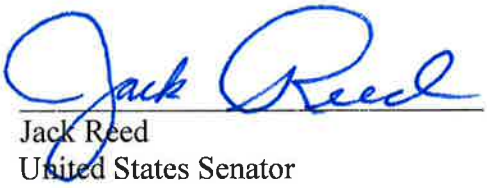

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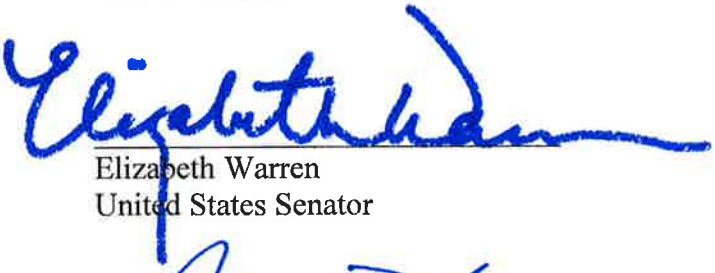

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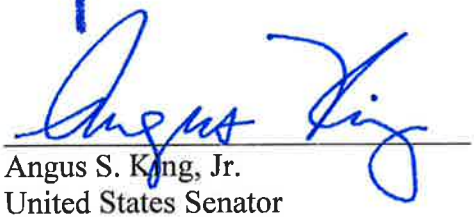

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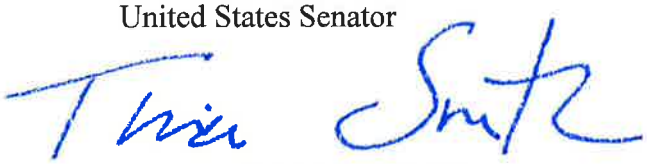
Robert Menendez
United States Senator



Tina Smith
United States Senator