June 9, 2014

The Honorable Sylvia Mathews Burwell
Secretary
U.S. Department of Health & Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Burdensome restrictions on Medicare Shared Savings Program participants in section 1834(m) of the Social Security Act

Dear Secretary Burwell:

The undersigned organizations congratulate you on your appointment as Secretary of the Department of Health and Human Services at such a critical time, and look forward to your leadership in shaping new ways to integrate and utilize innovative technologies that enable health information and communications technology (ICT) solutions to achieve improved care for Americans at lower costs. We believe that telemedicine and remote patient monitoring solutions hold great promise in reducing inpatient care and readmissions, as well as improving care coordination. However, the use of these technologies is limited by an outdated legal and regulatory structure. We are writing to encourage you to use your existing authority[1] to waive the current restrictions in section 1834(m) of the Social Security Act for telemedicine and remote patient monitoring services in the Medicare Shared Savings Program (MSSP). In addition, we urge for you to request comment on the use of telemedicine and remote

[1] 42 U.S.C. § 1395jjj(f) (stating that the Secretary "may waive such requirements of…title XVIII of this Act as may be necessary to carry out the provisions of this section.").

monitoring solutions by Accountable Care Organizations (ACOs) in the forthcoming Notice of Proposed Rulemaking (NPRM) for the MSSP.

Generally, we believe that regulations and policies should reflect the dynamic and transformative nature of advanced ICT solutions, and should not stifle innovation that can continually improve patient care. No area better illustrates this need than the United States' healthcare system. While current areas of focus, particularly on the agency level, remain on electronic health records (EHRs) and EHR interoperability, there is a true need for federal priorities to address the full potential of the health information technology ecosystem which is comprised of many technologies, including telehealth and medical remote monitoring. We encourage you to take a technology-neutral approach towards a fully-connected health ICT ecosystem that embraces the diversity of solutions that allow for innovative improvements in care that technology can provide at each stage along the continuum of care.

To date, Section 1834(m) has resulted in arduous restrictions on telehealth services[2] which limit patient access to new technologies, effectively discouraging providers from utilizing advanced ICT solutions in their practices. The restrictions on telehealth in 1834(m) include:

- No coverage for about 80% of Medicare beneficiaries who happen to live in the 1200 metropolitan counties not included in the definition of "rural."
- No coverage for "store-and-forward" services (such as transmission of medical images) for the 43 million beneficiaries who live outside of Alaska and Hawaii.
- No coverage for services originating from a beneficiary's home (even for the "homebound"), a hospice and other common non-medical locations from which a beneficiary seeks service.
- No coverage for otherwise covered Medicare services of physical therapy, occupational therapy, speech-language pathology, audiology and some other practitioners.
- No coverage for most health procedure codes, precluding the best judgment of physicians and other practitioners about the medical needs and other circumstances of all Medicare beneficiaries.

The known benefits of remote patient monitoring and telehealth services include improved care, reduced hospitalizations, avoidance of complications, and improved satisfaction, particularly for the chronically ill.[3] There are also significant potential for cost savings: a recent study has predicted that remote monitoring will result in savings of $36 billion globally by 2018, with North America accounting for 75% of those savings.[4] Providing ACOs with the ability to utilize advanced telehealth and monitoring solutions is consistent with the goals of the MSSP – namely, improved quality of care and reduced costs.

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[2] *See* 42 CFR § 410.78.

[3] *See, e.g.*, U.S. Agency for Healthcare Research and Quality (AHRQ) Service Delivery Innovation Profile, *Care Coordinators Remotely Monitor Chronically Ill Veterans via Messaging Device, Leading to Lower Inpatient Utilization and Costs* (last updated Feb. 6, 2013), *available at* http://www.innovations.ahrq.gov/content.aspx?id=3006.

[4] *See* Juniper Research, *Mobile Health & Fitness: Monitoring, App-enabled Devices & Cost Savings 2013-2018* (rel. Jul. 17, 2013), available at http://www.juniperresearch.com/reports/mobile_health_fitness.

Such an approach would also be consistent with the Affordable Care Act (ACA) which requires MSSP-participating ACOs to "define processes…to coordinate care, such as through the use of telehealth, remote patient monitoring, and other such enabling technologies."[5]

Based on the above, we believe that you can take two immediate and impactful steps to address needed changes to the MSSP that would help realize the potential of telehealth and remote monitoring. First, we urge for you to examine this important topic by requesting public input on such issues in the forthcoming MSSP rulemaking proceeding. Second, we respectfully urge you to use your existing authority to waive the current restrictions in section 1834(m) of the Social Security Act on Medicare reimbursements on connected care services for ACO MSSP provider participants.

The undersigned urge your consideration of the consensus of the broad community of stakeholders which support the wide use of telehealth and remote monitoring solutions to improve the United States' healthcare system, and we welcome the opportunity to work with you and your designees on such timely actions.

Respectfully submitted,

American Telemedicine Association
Association of Clinicians for the Underserved
Association for Competitive Technology
Baxter International
Christus Health
Health IT Now Coalition
HIMSS
Intel
Panasonic Corporation of North America
Personal Connected Health Alliance
Qualcomm
Telecommunications Industry Association

[5] 42 U.S.C. § 1395jjj(b)(2)(G).