

United States Senate

WASHINGTON, DC 20510

July 31, 2008

The Honorable Mike Leavitt
Secretary
United States Department of Health and Human Services
Room 615-F, Washington, DC 20201
200 Independence Avenue, SE
Washington, DC 20201

RE: Proposed Rule for the Medicare Program; Changes in Conditions of Participation Requirements and Payment Provisions for Rural Health Clinics and Federally Qualified Health Centers – 73 *Fed. Reg.* 36696 et seq (June 27, 2008).

Dear Secretary Leavitt:

We are writing to urge you to extend the public comment period for 60 days for the proposed rule governing the Rural Health Clinics (RHC) program published in the Federal Register on June 27, 2008. We believe that the proposed rule runs the risk of forcing some RHCs to close their doors. Therefore, Centers for Medicare and Medicaid Services' (CMS) should allow sufficient time for states and the RHC community to analyze the likely impact and provide substantive comments.

While we support CMS' efforts to ensure that the Medicare and Medicaid conditions of participation are consistent with the relevant statute, the proposed rule as published does not provide an adequate impact analysis of the changes put forward. We are particularly concerned that CMS' three-year designation requirement for health professional shortage areas creates an administrative nightmare for states because the Health Resource and Services Administration, the agency responsible for determining these areas, operates on a four-year designation cycle. We are hearing estimates from our states and RHCs that the continued existence of hundreds of RHCs could be at stake. Many RHCs are an essential source of primary, mental health, pediatric or obstetrics/gynecology services for our constituents who reside in rural underserved areas.

Additionally, we request answers to the following questions and that the information be provided to states at least 30 days before the comment period deadline:

- How many RHCs are located in shortage areas where the shortage area designation (Health Profession Shortage Area, Medically Underserved Area or by Governor) is more than three years old?
- How many states are conducting shortage area updates on a three-year timetable?

- How many RHCs (by state) will qualify for one of the essential provider exceptions you are proposing?
- What other options did CMS consider with regard to qualifications for being designated as an essential provider? Why were these other options rejected?
- How many RHCs and Federally Qualified Health Centers (by state and category) are currently receiving more than 100 percent of their Medicare costs?
- What is the estimated administrative burden on RHCs to pursue an exception to the location requirements from CMS?
- How many RHCs will see a drop in revenue as a result of the changes you are proposing in the RHC payment methodology (i.e., limiting RHC payment to the independent RHC rate per visit)?
- The proposed rule indicates that CMS believes the fiscal impact of the change to result in program savings? What would be the annual reduction in total Medicare payments to RHCs resulting from limiting RHC payments to the independent RHC rate per visit?
- What would be the average per visit reduction for each RHC as a result of the payment methodology change?
- How many RHCs (by state) are located in areas no longer considered "non-urbanized"?
- How many RHCs (by state) do you estimate will qualify for the essential provider exception you propose for RHCs that no longer are located in non-urbanized areas?
- How many RHCs (by state) are located in areas where the shortage area designation has been withdrawn?

Once this information is available, a reasonable assessment of the proposed changes can be made. Unfortunately, we do not believe that CMS has provided Congress, the states or the RHC community with enough information or enough time to adequately respond to these proposed changes.

We thank you for your consideration of our request for an extension of the comment period and look forward to your responses to our questions.

Sincerely,

Ron Wyden
Maria Cantwell

Pat Roberts

John Sununu
Debbie Stabenow
Joe Testa
Bob Sanders

John Barrasso
Paul Caban
Tom Harkin

Erin Boyle
Jim Johnson
Dick Lugar

Cc. The Honorable Kerry Weems