



September 13, 2017

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

Dear Chairman Brady:

The Healthcare Leadership Council (HLC) appreciates the opportunity to submit a statement regarding the Ways and Means Committee markup on, “Legislation to Improve Medicare Programs and Policies, Expand Evidence-Based Welfare Solutions to improve the Medicare program.” HLC broadly supports efforts to improve Medicare, including the expansion of evidence-based solutions, and is providing feedback on some of the legislation announced.

HLC is a coalition of chief executives from all disciplines within American healthcare. It is the exclusive forum for the nation’s healthcare leaders to jointly develop policies, plans, and programs to achieve their vision of a 21st century health system that makes affordable, high-quality care accessible to all Americans. Members of HLC—hospitals, academic health centers, health plans, pharmaceutical companies, medical device manufacturers, biotech firms, health product distributors, pharmacies, post-acute care providers, and information technology companies—believe that the issue of healthcare costs should be addressed through competition in a transparent, consumer-oriented healthcare marketplace.

H.R. 3726, “Stark Administrative Simplification Act of 2017”

HLC applauds legislative efforts to modernize and reduce the administrative burden of the Stark Law under Medicare, but believes that the language in H.R. 3726 does not adequately achieve this goal. While the intent of the legislation is admirable, we are concerned the execution of this policy would only create a greater burden on providers.

As per our understanding, this proposal would create a second self-disclosure process, where having just one would be administratively easier for both providers and CMS. It also may require a provider to submit multiple disclosures to CMS for the same activity.

HLC recommends that this language be amended to eliminate the need for multiple disclosures of the same activity.

HLC believes that this provision will not be used as often as intended due to its narrow scope. Additionally, the legislation's increased penalties for fraud and abuse violations will deter organizations from entering into alternative payment arrangements because it would present too great a risk.

Given the leeway CMS has already granted for technical violations, a more meaningful improvement may be to eliminate technical violations altogether and/or eliminate strict liability rather than using a piecemeal approach that essentially creates new obligations rather than fully addressing stakeholder concerns about stifling innovation and diverting resources away from patient care.

More broadly, HLC believes that a more comprehensive modernization of the Stark Law and Anti-Kickback Law is needed in order to successfully meet the objectives, not only of the Medicare Access and CHIP Reauthorization Act (MACRA), but all value-based payment arrangements. Recognizing the transformational nature of the shift to value-based payment within the existing legal framework governing the United States healthcare system, HLC has convened a broad group of organizations that advocates for a legal framework that allows the use of incentives to drive better value in healthcare. In order to better coordinate and deliver patient care, this framework must allow appropriate patient-serving care delivery and payment models involving broader collaboration among stakeholders in order to accelerate ongoing improvements in care quality and patient safety while reducing the rate of cost growth. HLC recommends that the Committee consider a broader set of priority legislative recommendations to better support innovative care and integrated care delivery and payment models. These priority options are available at <http://bit.do/HLCStarkWhitePaper>.

H.R. 3727, “To amend title XVIII of the Social Security Act to include additional telehealth services for purposes of MA organization bids, and for other purposes”

HLC is pleased to see congressional leadership on modernizing Medicare coverage to include telehealth services and has long supported allowing Medicare Advantage (MA) plans more flexibility in providing telehealth services to individuals in both urban and rural areas. This will allow for increased innovation and patient access to care in MA delivery systems.

HLC strongly supports the sense of Congress that there should be, “parity, with respect to access to telehealth between the original Medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act and the Medicare Advantage

program under part C of such title; and access to medically appropriate, quality telehealth for all Medicare beneficiaries.”

Adequate coverage and payment for telehealth services remains a major obstacle for providers, and Medicare as a whole lags far behind other payors due to its restrictive statutes and regulations. HLC also believes that CMS should lift its current restrictions on telehealth, including patient location restrictions, communication technology restrictions, and coverage (1834m) restrictions.

The Independent Payment Advisory Board (IPAB)

HLC would also encourage the Committee to make Medicare stronger and more innovative by addressing an entity that threatens to weaken it. IPAB was created with the ostensible purpose of controlling Medicare spending, but it does so in a way that does not improve the health of beneficiaries, does not add value to the Medicare program, and does not respect the prerogative of the elected members of the legislative branch to set Medicare policy. Any notion that IPAB could be a catalyst in promoting productive healthcare reforms is undermined by the provisions in the law stating that IPAB must achieve scoreable savings – sufficient to reach statutory budget targets – within a one-year timeframe. Given this requirement, IPAB is most likely to focus on short-term savings in the form of payment cuts to healthcare providers. We therefore encourage the Committee to take up and pass H.R.849, Protecting Seniors' Access to Medicare Act of 2017.

Thank you again for your work to improve the Medicare program and reduce regulatory burden. HLC looks forward to continuing to work with you on these and other important healthcare modernizations. If you have any questions, please do not hesitate to contact Tina Grande at (202) 449-3433 or tgrande@hlc.org.

Sincerely,



Mary R. Grealy
President

cc: The Honorable Richard Neal