News from the
Home Care Association
Of New York State

For Immediate Release: December 9, 2013 **Contact:** Roger L. Noyes (518) 810-0665
(518) 275-6961 cell

Feds Issue Biggest Medicare Home Health Service Cuts in Decades, Beginning January 1

Media urged to examine local impact on NY home health providers, 77% of whom will experience a net loss on Medicare services under these disastrous new program cuts

ALBANY – On January 1, Medicare home health services face the biggest payment changes since the Budget Control Act of 1997, which caused home health agencies to shoulder enormous losses and led to widespread program closures.

Newly finalized payment changes for 2014 risk a repeat of history if federal policymakers do not act now to delay **$800 million in Medicare home health cuts set to go into effect nationally over the next four years**.

The new cuts beginning in 2014 are part of a process called 'rebasing,' which involves adjustments to the base of Medicare home health payments. The purpose of 'rebasing' is to control Medicare costs by examining home health provider agency finances and then adjusting the rates that Medicare pays for these vital, cost-effective services.

Rebasing is required by the Affordable Care Act (ACA). However, the law leaves it up to the U.S. Centers for Medicare and Medicaid Services (CMS) to decide how to go about the rebasing process.

CMS finalized its rebasing decision on November 22, issuing a plan for 2014 that **reduces Medicare home health payments by 3.5% in each of the next four years – the maximum amount allowed by law**.

"Home health providers have been dealt cumulative rate cuts of 20 percent since 2008, including an initial round of millions in Medicare home health reductions when the Affordable Care Act was passed in 2010," said HCA President Joanne Cunningham. "In that time, New York home health agencies have suffered extensive losses that jeopardize access to services. Estimates indicate that 77% of New York agencies will be under water by 2017 if the recently finalized rebasing payment cuts are not appropriately scaled back."

"In passing the federal health reform law, Congress entrusted federal policy experts at CMS to thoroughly examine the data, recommend payment adjustments informed by this data, and then assess the impact of any proposed changes on access to care. CMS's rebasing plan falls short on all of these criteria," she added. "A bipartisan coalition of House and Senate lawmakers has already expressed serious concerns about the rebasing cuts, and we hope to enlist continued support from Congress for a delay of this disastrous policy which threatens the viability of home care services nationwide."

Given the enormity of these cuts and the disastrous implications for services to the elderly, **media outlets are urged to contact home health providers in your community to learn about the local impact of rebasing.** (HCA can assist reporters in this effort.) More background information is on the next page.

How Rebasing Works and its Major Flaws

The rebasing cuts finalized by CMS in late November will reduce overall Medicare home health payments by $200 million nationally in 2014. This impact grows to $800 million over the life of rebasing, since ACA requires the adjustments to occur in equal increments over four years.

To arrive at its targeted adjustment, CMS examined the difference between the payment amounts that home care providers received from Medicare and how much was spent on services, and then used this analysis to adjust the rate of payments for future years.

This difference between the amount received and the amount spent is called the Medicare 'operating margin.' A positive operating margin indicates how far "in the black" a provider is, while a negative margin indicates how far "in the red" a provider is.

By statute, CMS must use the "most reliable, available data" possible for determining the size of its rebasing adjustments. Unfortunately, CMS used neither.

CMS estimates that providers nationwide would have a positive operating margin of 13.09% in 2013. To reduce this margin to zero – thus leaving providers with no resources for capital to keep pace with increasing regulatory requirements and modernization through technology – CMS elected to cut home health payments by 3.5% in each of the next four years.

Unfortunately this estimate is grossly at odds with the financial condition of home health providers in New York State and in many other regions of the country, resulting in excessive cuts that go far beyond CMS's stated intent of ensuring nominal differences between a provider's Medicare receipts and its Medicare expenditures. CMS's estimate of a 13.09% margin is based on 2011 data and reflects a flawed analysis of national averages, whereas individual agencies and specific regions of the country vary significantly from the national average.

On the broadest level, CMS's projections do not account for major new cost impacts affecting providers since 2011, including: a 25% rise in fuel prices; the increasing cost of employee health benefits; regulatory requirements; and past cuts, including the federal sequestration cuts and other payment cuts already scheduled under ACA. CMS's estimate of provider operating margins is also based on a small sampling of home health provider data. A separate analysis by the National Association for Home Care and Hospice (NAHC) involved a broader sample of data from 2011 and shows a national home care margin of 11.25%, not 13.09%.

By attempting to zero-out the national average home health operating margin, CMS's proposal severely jeopardizes providers in states like New York who are already operating at a net loss. Even assuming CMS's flawed calculation of a 13.09% national operating margin, **rebasing would reduce New York's average operating margin to -33%.**

In fact, contrary to CMS's national claims, New York's home care Medicare margins have remained negative for eleven years in a row, with a margin of -19.27% in 2011 (the most recent year of data available). New York is among 13 states whose Medicare margins will plunge deeper into the red as a result of CMS's proposal.

"Even if we were to take CMS's assumptions at face value, then the outlook is bad enough, leaving home care agencies with no financial capacity to plan for the future or cushion against unforeseen costs," Cunningham said. "But if you take into account the real financial condition of home care nationally, where margins are far lower, especially in New York, then these cuts strike right at the bone."

Congressional Action Needed

HCA, NAHC and the Visiting Nurse Associations of America (VNAA) are continuing to engage Congress on actions that would delay, alter or repeal the final rebasing methodology issued by CMS so that additional time can be given to an analysis which more accurately accounts for provider costs and, thus, a more appropriate rebasing approach.

When CMS's rebasing proposal was first issued, Reps. David McKinley (R-WV) and Doris Matsui (D-CA) in the U.S. House and Senator Debbie Stabenow (D-MI) in the Senate spearheaded a letter to CMS raising concerns with the level of then-proposed cuts.

"We firmly believe in ensuring the accuracy of all Medicare reimbursement," the letter states. "However, we are concerned that the proposed rule may fall short of this goal due to its reliance on incomplete data and analysis that results in the under-counting of home health agencies' costs per episode of care, and an inappropriately high rebasing adjustment."

This bipartisan letter was signed by nearly 150 Members of Congress.

The House letter is at: http://www.hca-nys.org/documents/HouseRebasingLetter913.pdf.

The Senate letter is at: http://www.hca-nys.org/documents/SenateRebasingLetter913.pdf.

"HCA and the national provider community thank Congress for its strong bipartisan stance on rebasing and we urge Congress' continued active engagement to direct CMS to delay rebasing and initiate a more rational approach," Cunningham said.

###

The Home Care Association of New York State (HCA), the state's premier home care association, represents approximately 400 home and community-based providers, individuals, and associate members who collectively serve thousands of New Yorkers.

388 BROADWAY, 4TH FLOOR • ALBANY, NY 12207
PHONE: 518.426.8764 • FAX: 518.426.8788 • E-mail: rnoyes@hcanys.org • www.hcanys.org