

January 25, 2017



Mark E. Miller, Ph.D.
Executive Director
Medicare Payment Advisory Commission (MedPAC)
425 I Street, NW
Suite 701
Washington, DC 20001

Dear Dr. Miller:

The Home Care Association of New York State (HCA), Inc., is a statewide organization representing the majority of New York's Certified Home Health Agencies (CHHAs) as well as the full continuum of home and community based provider entities serving populations under Medicare, Medicaid, and other payors. In addition to CHHAs, our members include Long Term Home Health Care Programs, Licensed Home Care Services Agencies, Managed Long Term Care Plans and Hospices which collectively serve approximately 180,000 Medicare and 375,000 Medicaid home health beneficiaries annually.

We write to express our grave concerns about MedPAC's unanimous vote, on January 12, to recommend an additional five-percent cut in the 2018 Medicare payment rates for home health agencies as part of MedPAC's imminent March Report to Congress. Likewise, we also express serious concerns about MedPAC's recommendation that the U.S. Centers for Medicare and Medicaid Services (CMS) should implement a two-year rebasing of the home health prospective payment system (HHPPS), beginning in 2019.

MedPAC's recommended 5-percent reduction in home health payments is based on a claim that the operating margins of free-standing home health agencies were an estimated 15.6% in 2015 nationally. This national estimate alone is questionable, as it does not consider any of the 1,500-plus agencies in the U.S. that are part of a hospital or skilled nursing facility. These facility-based agencies have distinct financial and operational structures from free-standing providers and are an important part of the home care continuum that must be considered in MedPAC's analysis. Nationally, facility-based agencies have an average un-weighted Medicare operating margin of -6.19%. In New York – where these facility-based agencies represent more than 20% of all Medicare certified providers – this un-weighted operating margin is -32.53% (based on 2014 Medicare cost reports).

As these and other numbers show, MedPAC's sole reliance on nationwide margins – and its use of incomplete data in doing so – overlooks the significant variation in margins exhibited on a regional or state-by-state basis. Thus, HCA respectfully requests that MedPAC amend its proposed March Report to Congress, urging CMS to analyze regional differences in home health operating margins to properly substantiate any payment decisions under consideration.

MedPAC and CMS need only look at New York's case for compelling reasons why a regional analysis is justified, especially considering that more than 5% of all Medicare home health patients and visits occur in New York, a significant sample size for analysis. New York's home care Medicare margins, as a whole, have remained negative for fourteen years in a row, with an overall un-weighted average margin of -16.36% in 2014 (the most recent year of data available to HCA for analysis). This is a complete inverse of the national figure cited by MedPAC.

Furthermore, a just-completed HCA analysis of independently certified state cost reports found that over 72% of New York's Medicare certified home health agencies were operating at a loss across *all* payors in 2014, not

just Medicare. These losses leave no resources for capital to keep pace with: increasing regulatory requirements; modernization needs through technology; or opportunities to participate in some of the innovative care models developed by CMS and New York's Medicaid waiver programs.

All payment decisions and recommendations should consider these regional differences very carefully, especially since New York State has among the nation's highest labor costs. These costs are now alarmingly exacerbated by the state's implementation of a phased-in \$15 per-hour minimum wage hike, the balance of which is unfunded by Medicare. This mandate, when fully phased-in, will cost a stunning \$2.1 billion for New York agencies across all payors (Medicare, Medicaid, managed care, commercial insurance and private-pay).

New York also has a high concentration of dual-eligible beneficiaries and costlier chronic-care cases, as revealed in reimbursement data showing a comparatively weighty number of outlier episodes in New York State – those cases where CMS pays more for high-need beneficiaries, but only up to a capped threshold well below the need for coverage.

CMS has yet to consider any of these distinct factors in payment decisions which have major implications for providers and beneficiaries, and it should be compelled to do so. MedPAC, an influential voice on payment matters, can help promote a more statistically sound analysis from CMS when it comes to the urgent issue of reimbursements to care for the elderly and persons with disabilities. Absent a regional analysis by CMS, the blunt instrument of across-the-board payment or rebasing cuts fails to address regional inequities, causing New York operating margins to plummet while other regions of the country have continued to report positive margins in some cases.

For similar reasons, we ask MedPAC and its Commission members to reconsider your recommendation of another two-year rebasing of HHPPS beginning in 2019. CMS's current rebasing initiative has already cut over \$700 million in Medicare payments to providers between 2014 and 2017, substantially contributing to the alarming financial findings reported for New York State providers. These existing cuts dramatically worsen an already disastrous, decade-long trend of deep and escalating Medicare losses for New York State home health agencies, threatening access to care for homebound elderly and persons with disabilities who rely on Medicare.

MedPAC and CMS must fully analyze the impact that the federal government's current rebasing initiative (2014-2017) and other payment factors have already had on home health agency viability and access to home health services, thus compelling MedPAC to take a second look at its planned report to Congress and CMS as recommended in this letter.

HCA appreciates your consideration of our concerns and recommendations.

Sincerely,

A handwritten signature in blue ink that reads "Joanne Cunningham". The signature is fluid and cursive, with a long, sweeping underline.

Joanne Cunningham
President
Home Care Association of New York State (HCA)

cc: New York's Congressional Delegation