

# Congress of the United States

Washington, DC 20515

February 14, 2023

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

We write to you today to express our deep concerns about fraud and abuse within the hospice benefit. Hospice is a vital part of the Medicare program, especially as a community-based holistic treatment. However, alarming reports of fraud and abuse threaten both patient safety and fiscal responsibility. The Ways and Means Committee's legislation to give the Centers for Medicare and Medicaid Services (CMS) additional oversight tools was enacted as part of the Consolidated Appropriations Act of 2021. We request a briefing on any gaps in oversight tools and the implementation of this legislation as well as any other hospice-related oversight activities CMS has been conducting.

As you know, *ProPublica* and *The New Yorker* published an article on November 28, 2022 detailing horrific allegations of fraud from newly certified hospices that run the gamut of wasting taxpayer dollars to putting vulnerable patients in danger. These reports include hospices offering inappropriate incentives to employees for enrolling patients, enrolling patients without their full understanding and cutting them off from curative treatment options, and live-discharging patients to avoid hitting the Medicare hospice. The article also revealed cases of license fraud including "churning and burning," where new fraudulent hospices buy new licenses while keeping the same patient population to continue to receive payments, ownership of multiple hospices by one individual, or multiple hospices co-locating at one address.

This article is far from the first time light has been shed on bad actors and poor quality in hospice. In 2019, the Department of Health and Human Services, Office of the Inspector General (OIG) reported that over 80% of hospices surveyed had at least one deficiency. The OIG found that one-third of all hospices that provided care to Medicare beneficiaries had a complaint filed against them and deficiencies such as poor care planning and improperly vetting staff jeopardized patient safety and care. In response, recommendations from the OIG report were included in the Helping Our Senior Population in Comfort Environments (HOSPICE) Act and enacted as part of the Consolidated Appropriations Act of 2021. Doing so gave CMS the ability to penalize bad actors with additional oversight tools, improve surveys, and increase transparency.

The various instances of gaming the system and harming patients raises a number of questions about how the hospice benefit is currently implemented and how the federal government can better partner with stakeholders and state agencies to stop this going forward. In light of these

reports, we request a briefing to our offices within 14 days on any gaps in oversight tools, the implementation of past legislation, and any other hospice-related oversight activities that your agency has conducted. Specifically, we ask CMS to provide information on what additional oversight authorities may be needed to combat both bad quality and fraud, what resources CMS needs to prevent and act against fraud, and future actions related to the legislation or otherwise CMS plans on taking in wake of this reporting. Additionally, we welcome your input on the attached program integrity recommendations from the hospice industry, including actions CMS can take.

Hospice can be an important part of a patient's care, but only if it is operating as intended. We stand ready to work with CMS to ensure that this continues to be a safe option for patients while ensuring that congressional oversight is carried out, and we look forward to hearing from you on these matters.

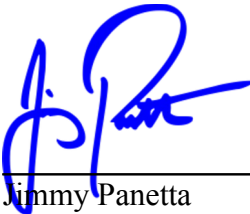
Sincerely,



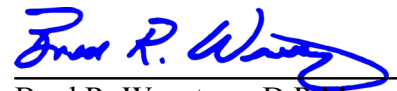
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Member of Congress



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