

**Congress of the United States**  
**Washington, DC 20515**

March 13, 2020

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Hubert H. Humphrey Building  
200 Independence Avenue, SW  
Washington, DC 20201

***RE: Proposed Rule: CMS-2393-P, Medicaid Program: Medicaid Fiscal Accountability Regulation (Vol. 84, No. 222), November 18, 2019***

Dear Administrator Verma,

We write regarding the proposed Medicaid Fiscal Accountability Regulation (MFAR) from November 18, 2019. We understand the desire of the Centers for Medicare and Medicaid Services (CMS) to promote financial integrity in state Medicaid programs. However, MFAR would have unintended, harmful consequences for the Arizona Medicaid program, known as the Arizona Health Care Cost Containment System (AHCCCS), and Arizona's state budget. The Government Accountability Office (GAO), Department of Health and Human Services (HHS), and Medicaid and CHIP Payment and Access Commission each note the need for additional data and oversight of Medicaid supplemental payments. While we are supportive of improved data collection and transparency, we ask that any proposed changes to the supplemental financing tools be postponed until more complete data and stakeholder feedback is collected. We support efforts to strengthen accountability and transparency in state Medicaid programs without causing undue harm to Arizona's most vulnerable residents.

MFAR makes broad changes that could prohibit or limit many financial and supplemental payment arrangements that AHCCCS currently depends upon and that CMS has previously deemed permissible. This would leave Arizona without sustainable financing options and harm its ability to meet its obligations, which is not the stated intent of the proposed MFAR rule. As AHCCCS leads the nation's Medicaid programs with the lowest administrative expense ratio, further cuts to their ability to finance the state portion will inevitably mean cuts to services. If AHCCCS loses its flexibility to assess hospitals, Arizona would not be able to fund AHCCCS services for over 400,000 adult Medicaid beneficiaries. We are also concerned that state waivers for provider assessments could be impacted, harming Continuing Care Retirement Communities (CCRCs) that provide long-term care to older Arizonans. Healthcare providers serving children across Arizona express strong concerns with the proposal's impact to the Arizona children and families many of whom are covered by AHCCCS.

The impact on the state budget could also endanger other programs approved by the Arizona state legislature, such as graduate medical education (GME) and rural disproportionate share hospital (DSH) payments. This will disproportionately impact our rural and medically underserved communities, particularly at a time when we are experiencing increasing physician shortages. As you likely know, the U.S. is expected to experience a shortage of approximately 122,000 physicians by 2032, including in both primary and specialty care.<sup>1</sup> MFAR could further exacerbate the problem by reducing physician payments, causing additional challenges to recruit and retain physicians in rural and medically underserved areas (MUAs) and undermine access to health care.

We are concerned that CMS has not conducted a regulatory impact analysis to better understand how these proposed changes would affect state Medicaid programs. We urge CMS to consider the enclosed comments recently submitted by the National Governors Association (NGA), the Arizona Hospital and Healthcare Association (AzHHA), and the technical comments submitted by AHCCCS.

Arizona remains ready to work closely with CMS to strengthen transparency and accountability in Medicaid. In the meantime, we request CMS not move forward with the proposed rule and instead work with states and stakeholders to find better ways to achieve long-term fiscal integrity goals. Thank you for your attention to this matter.

Sincerely,



Kyrsten Sinema  
U.S. Senator



Tom O'Halleran  
Member of Congress



Ann Kirkpatrick  
Member of Congress



Raúl Grijalva  
Member of Congress



Paul A. Gosar, D.D.S.  
Member of Congress



Andy Biggs  
Member of Congress

<sup>1</sup> "New Findings Confirm Predictions on Physician Shortage," Association of American Medical Colleges (AAMC), April 23, 2019, available at <https://www.aamc.org/news-insights/press-releases/new-findings-confirm-predictions-physician-shortage>.

David Schweikert  
Member of Congress

Ruben Gallego  
Member of Congress

Debbie Lesko  
Member of Congress

Greg Stanton  
Member of Congress

Martha McSally  
U.S. Senator

CC: Office of The Arizona Governor Doug Ducey  
1700 West Washington Street  
Phoenix, AZ 85007