



February 11, 2020

The Honorable Terri Sewell
United States House of Representatives
2201 Rayburn House Office Building
Washington, D. C. 20515

The Honorable John Shimkus
United States House of Representatives
2217 Rayburn House Office Building
Washington, D. C. 20515

The Honorable Adrian Smith
United States House of Representatives
502 Cannon House Office Building
Washington, D. C. 20515

The Honorable Brad R. Wenstrup
United States House of Representatives
2419 Rayburn House Office Building
Washington, D. C. 20515

The Honorable Tony Cárdenas
United States House of Representatives
2438 Rayburn House Office Building
Washington, D. C. 20515

The Honorable Kurt Schrader
United States House of Representatives
2431 Rayburn House Office Building
Washington, D. C. 20515

Re: **Opposition to H.R. 5741 - Strengthening Innovation in Medicare & Medicaid Act**

Dear Co-Sponsors:

The Health Care Transformation Task Force (HCTTF) is a private sector consortium of purchaser, provider, payer and patient organizations committed to accelerating the pace of delivery system transformation. Founded in 2014, our members are on the front lines of value-based payment and care delivery and committed to transitioning away from antiquated fee-for-service medicine.

We write to express opposition to H.R. 5741. In sum, the bill goes further than necessary to address some legitimate concerns, will significantly hamper innovation through added administrative burden, and will give stakeholders who are committed to preserving the status quo new tools to slow innovation based on special interests. As a result, the opportunities for physicians to participate in advanced alternate payment models (Advanced APMs) will be constrained, thereby slowing momentum toward a more robust value-based payment and care delivery system.

While introduced under the pretext of strengthening innovation and transparency, this legislation would impose new procedures and administrative burden on the Center for Medicare & Medicaid Innovation (CMMI or Innovation Center) that would effectively grind Medicare and Medicaid innovation to a halt. While HCTTF supports greater transparency and public input around CMMI's initiatives, this bill goes too far by replacing CMMI innovation with CMMI paperwork through new, overly bureaucratic oversight by the legislative and judicial branches.

This bill also provides tools for certain stakeholders to use political means to delay innovations they find undesirable, with the opportunity to do so being available at every stage of model design, development, modification or expansion. This approach represents a fundamental

change to CMMI's authority, going well beyond the desirable objective of greater public input and CMMI transparency. **Thus, HCTTF members believe that H.R. 5741 is a step in the wrong direction for value-based transformation.**

HCTTF is a longstanding supporter of CMMI. By testing over 40 alternate payment models (APMs), the Innovation Center has been a major catalyst in the promotion and advancement of value-based payment and care delivery reform across the United States, which has also helped spur momentum in private sector transformation. HCTTF members have participated in most of these models, so we know the strengths and weaknesses of CMMI's authority and processes. CMMI's ability to iterate upon and expand successful APMs is an important tool that allows for timely and responsive modernization of government health care programs. The Innovation Center's unique authority is widely viewed as a distinct and welcomed improvement over the prior cumbersome Medicare demonstrations process.

HCTTF understands there are areas where CMMI can improve its operations, effectiveness and transparency and is on record with a series of recommendations advancing that objective based on our members' experience participating in Medicare and Medicaid APMs over the last ten years. However, H.R. 5741's broad-based Congressional review process and opportunity for judicial review go further than necessary; it would fundamentally alter CMMI's design as an innovation engine able to rapidly test value-based payment models and, where appropriate, expand those models to scale.

Two provisions of H.R. 5741 cause HCTTF members significant concern. First, CMMI would be required to transmit a proposal to Congress for the "testing, expansion, or modification" of every alternate payment model at every stage of development. While the Congressional review period is limited and the CMMI can proceed if timelines are not met, the required act of CMMI preparing and submitting these proposals in and of itself is a significant, time consuming process that could happen multiple times for a single model. This administrative slowdown would be a net negative for advancing value-based payment models and would adversely affect the scope and breadth of CMMI's model portfolio. Notably, CMMI already goes through a rulemaking process for any model requiring mandatory provider participation which provides opportunity for public input and congressional oversight.

Second, H.R. 5741 would also place significant limits on the scope and duration of CMMI models, as well as institute an avenue for judicial review of CMMI's decisions on design parameters and model expansion. While the legislation does not directly address the topic of mandatory provider participation in CMMI models, these provisions appear designed to limit the scope of any potential mandatory model and provide the ability for affected entities to sue to delay or forestall its implementation. We oppose judicial review for this reason, especially given it's not clear what expertise or legal standard courts would apply to constitute meaningful review to offset the significant delay associated with federal court litigation.

By constraining CMMI's ability to innovate, H.R. 5741 would affect the federal government's value transformation efforts in another important way. The MACRA law, which passed with widespread bipartisan support in 2015, established financial incentives for qualifying physicians who participate in Advanced APMs. Currently, there are 13 Advanced APMs, of which

12 are operated by the Innovation Center.¹ H.R. 5741's proposed constraints would stifle CMMI's ability to develop and continue operating Advanced APMs, effectively limiting the financial incentives for physicians that influence them to advance on their own value transformation trajectories.

Notably, H.R. 5741 includes policy proposals with which the HCTTF agrees, including refinements to address the challenging issues around overlapping value-based payment models. However, the concerns expressed above outweigh the benefits, especially considering HCTTF members would prefer to see more models qualify for expansion and made to be permanent offerings in the Medicare program. Thus, we oppose H.R. 5741 in its current form.

We welcome the opportunity to work with you on an approach that better balances the critical issues in play regarding the future of CMMI. Please contact HCTTF Executive Director Jeff Micklos (jeff.micklos@hcttf.org or 202.774.1415) with any questions or follow up.

Sincerely,

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¹ <http://qpp.cms.gov/apms/advanced-apms/>

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cc: Members of the House Ways & Means and Energy & Commerce Committees