



Sound Policy. Quality Care.

September 8, 2011

Honorable Patty Murray
448 Russell Senate Office Building
Washington DC, 20510

Honorable Jeb Hensarling
129 Cannon House Office Building
Washington DC, 20515

Dear Senator Murray and Representative Hensarling:

We write to thank you for your service as Co-Chairs of the Joint Select Committee on Deficit Reduction. We understand the monumental task you face and applaud your willingness to tackle the issues facing our Nation's economy. The Alliance of Specialty Medicine (Alliance), a coalition of 11 medical specialty societies representing 100,000 physicians, stands ready to work with you to achieve these goals. Our mission is to advocate for sound federal health care policy that fosters patient access to the highest quality specialty care.

It is imperative for Congress to work together to make these difficult decisions and we want to see you succeed in addressing our country's dire fiscal situation. However, as you work to achieve the required savings, we urge you not to lose sight of the long-term implications of choices made today.

As the Joint Committee does its work, we encourage you to consider entitlement reforms that emphasize shared responsibility and long term stability to ensure that the Medicare program protects our most vulnerable seniors and individuals with disabilities. At the same time, any such reforms must ensure the viability of Medicare into the future, including protecting beneficiary access to care. We urge you to address the following issues in your recommendations:

- Eliminate the Independent Payment Advisory Board (IPAB);
- Ensure fair Medicare physician payment; and
- Enact real medical liability reform.

Eliminate the Independent Payment Advisory Board (IPAB)

The Alliance strongly opposes the Independent Payment Advisory Board (IPAB) and urges its repeal. Starting in 2014, the IPAB, as added by sections 3403 and 10320 of the Patient Protection and Accountable Care Act (PPACA), will require a 15-member board of non-elected officials to recommend Medicare spending reductions in order to reduce the per capita rate of growth in Medicare in years when spending exceeds a targeted growth rate. These un-elected individuals will have the authority to make significant changes to Medicare. We contend that access to specialty care will be severely limited due, in part, to the additional payment cuts the IPAB will impose on physicians, particularly since the IPAB's authority to recommend payment cuts do not extend to other providers, such as hospitals, until 2020. Medicare reimbursement rates are already well below market rates and are likely to get worse if no long term fix to the sustainable growth formula (SGR) is enacted by Congress. But if targeted growth rates are surpassed, the IPAB could decide to make additional cuts, further pressuring more and more physicians to stop seeing Medicare patients altogether. Specialty physicians have indicated they are reconsidering their participation in the Medicare program in light of the combined impact of

the IPAB and SGR, which will severely threaten Medicare beneficiary access to innovative therapies and specialty care. Important health care decisions must not be made by individuals with little or no clinical expertise, resources, or the oversight required to protect seniors' access to care. For these and other reasons, we urge the Debt Committee to recommend the repeal of the IPAB.

Fair Medicare Physician Payment Sustainable Growth Rate (SGR)

Given the likely focus on entitlement reform, as well as to ensure Medicare's long-term solvency, we would be remiss if we did not ask your committee to consider the significant impact that the unstable Medicare Sustainable Growth Rate (SGR) formula has on the current budget outlook. Through a series of budgetary gimmicks, the long-term impact of this issue has been largely ignored since the SGR was put in place as part of the Balanced Budget Act of 1997. Over the past two years, there have been six different legislative vehicles for providing a temporary stopgap measure to the problem, but a longer term solution is critical. Without an honest accounting of Medicare physician payment issues, the budgetary outlook will be flawed. As the Congressional Budget Office (CBO) notes, the SGR formula "cliff" gets larger and larger each time there is a delay in reforming the funding mechanism. In a March 27, 2009 letter to Congress, the CBO estimated that, "[b]y 2014, the cumulative reduction in the rates will be about 40 percent." The failure to provide a permanent fix for the flawed Medicare sustainable growth rate (SGR) formula jeopardizes access to specialty medical care for our nation's elderly and disabled. Congress must pass a permanent SGR fix prior to Dec. 31, 2011 or, according to the Centers for Medicare and Medicaid Services, physicians will face an overall payment reduction of 29.5%. Ideally any system that replaces the SGR would update payments based on the Medicare Economic Index, allowing reimbursements to be based on the actual cost of providing care. Given that long-term perspective, it is critical that your committee fully consider the implications of the SGR and provide appropriate stability to the Medicare program.

Quality Improvement

The Alliance is committed to providing the highest quality specialty care to Medicare beneficiaries so as to improve patient outcomes and the value of health care. Improving quality by analyzing specialty specific processes and outcomes of care to refine the indications for our interventions is an integral aspect of our efforts. To achieve this goal, each of the Alliance's specialty association members has been actively engaged in the process of developing evidence-based and clinically relevant quality measures and establishing clinical data outcomes registries and the Alliance supports a pay-for-participation system under which data regarding physician quality are collected in a non-punitive environment and analyzed using accurate risk-adjustment mechanisms.

It has been suggested that the SGR be replaced with a new payment system that no longer reimburses physicians for the quantity of services they provide, but rather pays doctors based on the quality and value of care they deliver. While Congress has taken the first steps towards implementing quality improvement payment programs, such as the Physician Quality Reporting System (PQRS) and shared savings pilots, it has yet to be demonstrated that these programs will lower Medicare costs and result in better patient outcomes. We therefore encourage the Joint Committee to reevaluate the wisdom of these programs and include recommendations to rescind the PQRS, electronic prescribing and health information technology penalties; repeal the budget-neutral value-based payment modifier; and delay the expansion of the physician quality and resource use programs until such time as valid risk adjusted clinical outcomes data is available.

Private Contracting

Finally, Congress should empower patients to obtain medical services from the physician of their choice by adopting additional Medicare payment options. We urge you to include in your recommendations the right for Medicare beneficiaries and providers to privately contract, in writing, for Medicare covered services without penalty. We believe the "Medicare Patient Empowerment Act" (H.R. 1700/S. 1042) appropriately protects vulnerable beneficiaries by ensuring that contracts may

not be entered when a beneficiary is facing an emergency medical condition or urgent health care situation, and does not allow low-income, dual-eligible beneficiaries to privately contract with physicians. Currently, patients must pay out-of-pocket the full contracted fee when they seek care from a physician who has opted out of Medicare. As we work toward the long-term stability of the Medicare program, beneficiaries should be allowed to use their Medicare benefit to offset a portion of the contracted fee and we should not require physicians to “opt out” of the Medicare program for two full years.

Enact Real Medical Liability Reform

In addition to addressing issues related to the Medicare program, the Alliance also believes it is now the perfect opportunity for Congress to tackle the serious problems with the current medical litigation system. The unpredictability of the current system has led doctors to limit the scope of their practices, move to states that have effective reforms in place, or leave medical practice altogether. Without reform, patients’ continued access to timely and necessary medical care remains in jeopardy. Specialty physicians believe it is imperative that Congress pass comprehensive medical liability reform legislation based on proven reforms in California and Texas.

As outlined by the Congressional Budget Office, medical liability reform could reduce total health care spending by about 0.5 percent (about \$11 billion in 2009) and help achieve health system savings of up to \$54 billion over the next decade by reducing the incentives for defensive medicine while also protecting physicians from unaffordable liability premiums. In addition to these savings, comprehensive medical liability reform will also improve patient access to specialty care, particularly in rural and underserved areas. Unfortunately, the Patient Protection and Affordable Care Act (PPACA) did not address this issue in a meaningful manner. Given the numerous proposals which have been introduced this Congress, we urge you to include meaningful medical liability reform within your deficit reduction package.

We understand the difficult choices you must make over the next several months and commend you for your willingness to accept this responsibility. We look forward to working with you and your staff over the coming months. If we may provide more information or answer any questions, please contact the Alliance at info@specialtydocs.org.

Sincerely,

cc: Rep. Xavier Becerra, Rep. Dave Camp, Rep. James Clyburn, Rep. Chris van Hollen, Sen. Max Baucus, Sen. John Kerry, Sen. Jon Kyl, Sen. Rob Portman, Sen. Pat Toomey, Rep. Fred Upton