The Hospice Care Accountability, Reform, and Enforcement (Hospice CARE) Act

The Hospice Care Accountability, Reform, and Enforcement (Hospice CARE) Act modernizes the Medicare hospice benefit through a combination of program integrity provisions and payment reforms to ensure Medicare's hospice program better meets the needs of terminally ill beneficiaries and their families. Medicare's hospice benefit has remained largely unchanged since its inception in 1982. Since that time, the industry has changed dramatically—both in terms of the types of providers delivering and the types of patients receiving end-of-life services. Documented, burgeoning fraud and abuse have raised critical questions about how to ensure the benefit is designed in a way that promotes patient access to needed services and safeguards the Medicare Trust Fund. Accordingly, this legislation proposes long overdue reforms to Medicare's hospice benefit to both protect patients and taxpayers from the costs associated with a subset of unscrupulous providers and improve access to necessary services and supports for individuals and their caregivers.

In electing to receive hospice care, terminally ill patients and their families must be confident that their provider is committed to delivering individualized, compassionate care that optimizes quality of life. Yet the underlying hospice per-diem payment structure—which generally pays hospices for each day of care whether or not any actual care is provided on a given day—rewards bad actors who exploit the Medicare hospice benefit for financial gain. Fraud and abuse schemes include providers certifying patients for hospice care when they are not terminally ill, providing little or no services to patients, and falsifying patient elections that result in vulnerable individuals being unable to access necessary medical care. More needs to be done to better align Medicare hospice payments with the costs of providing care, while protecting taxpayer dollars and Medicare beneficiaries from harm.

Last year, in response to these concerns, the hospice industry developed a list of program integrity recommendations. While the Centers for Medicare & Medicaid Services (CMS) has implemented some of those recommendations, other suggestions—such as an enrollment moratorium and more frequent surveys of new hospices providers—are outstanding. Accordingly, this bill builds on the industry's proposals through a series of program integrity and payment reforms that together seek to address many of the concerns expressed by the Department of Health and Human Services Office of the Inspector General, Government Accountability Office, Medicare Payment Advisory Commission, and other government watchdogs over the last decade.

Program Integrity. This legislation creates additional safeguards to prevent fraudulent providers from enrolling in Medicare and increases oversight of hospices, especially new hospices. Specifically, it:

- Temporarily prevents new hospices from enrolling in Medicare, while allowing exceptions for instances where additional access to care is needed.

- Requires increased transparency of hospice ownership and managing control information, ensuring CMS's enrollment records are up to date.

- Increases survey frequency for new hospices to ensure they meet hospice health and safety standards and prohibits payments to hospices that do not submit required quality data to the Secretary, with appropriate exceptions.

- Reduces the potential for inappropriate financial conflicts of interest when certifying individuals' eligibility for hospice care, while allowing nurse practitioners and physician assistants to also certify eligibility.

- Requires CMS to conduct additional oversight activities to ensure hospices are providing holistic and comprehensive care.

- Provides patients with an explanation of benefits within 15 days of an individual's hospice election to increase beneficiary awareness of hospice enrollment and prevent extended periods of fraudulent billing.

Payment Reform. This legislation modernizes the hospice benefit to ensure that providers are incentivized to deliver high-quality care to individuals and their families. Specifically, it:

- Revises the payment structure for routine home care to reward hospices for providing in-person care.

- Increases payments to hospices for furnishing palliative radiation, chemotherapy, blood transfusions, and dialysis to address access barriers for individuals that require these costly treatments under a hospice election. Additionally, it creates an outlier payment policy to provide a backstop for providers delivering care to high-cost patients.

- Adds home respite care to the Medicare hospice benefit, allowing individuals to receive respite care at home rather than in a facility, which is a key benefit for families and caregivers that are taking care of loved ones at the end-of-life.

- Creates a new transitional inpatient respite benefit to support patients and families through their transition from a hospital into hospice care in the setting of their choice, allowing patients to move from hospital to general inpatient care to transitional respite, when appropriate. This new transitional payment seeks to eliminate the current pattern of care whereby terminally ill individuals are discharged from the hospital and inappropriately admitted to a skilled nursing facility—because they do not have the supports to return home—in lieu of electing hospice care.