

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

April 7, 2020

Alex Azar  
Secretary  
Department of Health and Human Services  
Attention: CMS-2393-P  
200 Independence Avenue, S.W.  
Washington, DC 20201

**Re: CMS-2393-P, Medicaid Program; Medicaid Fiscal Accountability Regulation**

Dear Secretary Azar:

We write today regarding our concerns with the proposed Medicaid Fiscal Accountability regulation and urge CMS to reconsider moving forward with the rule. If finalized, this proposed regulation as currently drafted could result in significant Medicaid funding reductions that would curtail access to healthcare services for many of our constituents, including the most vulnerable.

The proposal seeks to restrict the use of existing legal and flexible mechanisms that currently enable states to finance and bolster their Medicaid programs. In New York, Medicaid pays far below cost, reimbursing hospitals an estimated 70 cents for each dollar of care provided. To maintain patient access to care, New York, like all states, depends on the financing flexibility currently allowed by the Medicaid program, and which is targeted in this regulation.

We are concerned that this proposed rule would limit the availability of these critical Medicaid resources that enable providers to maintain services in our districts.

According to a nationwide analysis<sup>1</sup> of the proposed rule, the Medicaid program could face total funding reductions of between \$37 billion and \$49 billion annually or 5.8% to 7.6% of total program spending. Hospitals specifically could see reductions in Medicaid payments of \$23 billion to \$31 billion annually, representing 12.8% to 16.9% of total hospital program payments.

Cuts of this magnitude cannot be implemented without harm to the vulnerable patient populations that rely on the Medicaid program.

We recognize the important role that the Medicaid program serves as the safety net of our healthcare system and we firmly believe it is incumbent upon us to protect the program's long-term sustainability. More than one-quarter of all New Yorkers are insured by Medicaid or the

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<sup>1</sup> Analysis provided by Manatt Health, 2020

Children's Health Insurance Program; 73% of New York state nursing home residents, 41% of the state's outpatient visits and 52% of all babies delivered in the state are covered by Medicaid.

As such, we support the goal of improving transparency and accountability in the Medicaid program. However, we are concerned that many of the provisions in this proposal would severely curtail the availability of healthcare services to millions of our constituents

We therefore urge the agency to work with Congress and other stakeholders to adopt reasonable policies to ensure accountability and transparency in the Medicaid program while protecting access to care for our most vulnerable constituents rather than move forward with this proposed regulation. Thank you for considering our request.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Katko". The signature is fluid and cursive, with a long horizontal stroke at the end.

John Katko

Member of Congress

Additional signers:

Elise M. Stefanik

Peter T. King

Tom Reed