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June 22, 2007

The Honorable Leslie Norwalk
Acting Administrator
Centers for Medicare & Medicaid Services
200 Independence Ave., SW
Washington, DC 20201

Dear Ms. Norwalk:

This morning the Committee is holding a hearing on the response of the Department of Health and Human Services to the nation's emergency care crisis. Last Thursday, June 14, the Committee invited you to provide testimony on actions taken by CMS to address this crisis. Your staff has informed us, however, that you are unable to attend or send a representative on your agency's behalf.

The programs administered by CMS play a major role in the financing of the nation's emergency and trauma care system. Of the 115 million emergency room visits in 2005, over 40% were covered by Medicare, Medicaid, or SCHIP. Obviously, an understanding of your agency's views is essential to an assessment of the Department's response to the emergency care crisis. I therefore request that you supply answers to the following questions:

- 1) What actions, if any, has CMS taken to address the boarding of admitted patients in emergency rooms at hospitals receiving Medicare or Medicaid funds? If CMS has taken no action to address this issue, please supply your rationale for such inaction.
- 2) What actions, if any, has CMS taken to address the diversion of ambulances from emergency rooms at hospitals receiving Medicare or Medicaid funds? If CMS has taken no action to address this issue, please supply your rationale for such inaction.
- 3) What actions, if any, has CMS taken to address the decrease in coverage by on-call specialists at hospitals receiving Medicare or Medicaid funds? If CMS has taken no action to address this issue, please supply your rationale for such inaction.

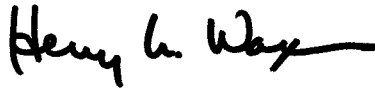
- 4) What actions, if any, has CMS taken to address the adverse health consequences of emergency room crowding, the boarding of admitted patients in ERs, and the diversion of ambulances on Medicare and Medicaid beneficiaries? If CMS has taken no action to address this issue, please supply your rationale for such inaction.
- 5) CMS has issued a final rule that would limit Medicaid payments to government providers, including safety net hospitals that furnish emergency care and level 1 trauma services. (72 Fed. Reg. 29748 (May 29, 2007)). In developing this proposal, did CMS seek the opinion, formal or informal, of the Office of the Assistant Secretary for Preparedness and Response (OASPR) as to whether the proposed rule would have an adverse effect on the nation's disaster preparedness? If not, please explain why CMS did not seek the OASPR's opinion on this matter. If so, please provide a copy of any document received from the OASPR relating to its opinion on this matter.
- 6) CMS has issued a proposed rule to eliminate federal Medicaid matching payments for the costs of Graduate Medical Education (GME), including the costs of residents who staff emergency rooms and trauma centers. (72 Fed. Reg. 28931 (May 23, 2007)). In developing this proposal, did CMS seek the opinion, formal or informal, of OASPR as to whether the proposed rule would have an adverse effect on the nation's disaster preparedness? If not, please explain why CMS did not seek the OASPR's opinion on this matter. If so, please provide a copy of any document received from the OASPR relating to its opinion on this matter.
- 7) In its June 2006 report, *The Future of Emergency Care*, the Institute of Medicine (IOM) recommended that "CMS should convene a working group that includes experts in emergency care, inpatient critical care, hospital operations management, nursing and other relevant disciplines to develop boarding and diversion standards, as well as guidelines, measures, and incentives for implementation, monitoring and enforcement of these standards." What actions, if any, has CMS taken to implement this recommendation? If CMS has taken no action to implement this recommendation, please supply your rationale for such inaction.
- 8) In its June 2006 report, IOM recommended that CMS "remove the current restrictions on the medical conditions that are eligible for separate clinical decision unit (CDU) payment." What actions, if any, has CMS taken to implement this recommendation? If CMS has taken no action to implement this recommendation, please supply your rationale for such inaction.

The Honorable Leslie Norwalk
June 22, 2007
Page 3

- 9) A recent GAO study concludes that Medicare payments for EMS services are 6% below the average cost of an ambulance transport, and 17% below cost in super-rural areas. (U.S. Government Accountability Office, *Ambulance Providers: Costs and Expected Medicare Margins Vary Greatly* (May 2007) (GAO-07-383)). What actions, if any, does CMS intend to take to address the GAO findings?

Please submit your responses by Friday, June 29, 2007. If you have any questions regarding this inquiry, please contact Art Kellermann at 225-5056.

Sincerely,



Henry A. Waxman
Chairman

cc: Tom Davis
Ranking Minority Member