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December 17, 2008

Mr. Kerry Weems
Acting Administrator
Centers for Medicare and Medicaid Service
200 Independence Ave. SW
Hubert Humphrey Building Room
Washington, D.C. 20024

Dear Acting Administrator Weems:

I am writing to express concerns with the final rule regarding changes to Medicare reimbursement for oxygen equipment that was included in the Medicare Improvements for Patients and Providers Act (MIPPA).

As you know, the Deficit Reduction Act (DRA) of 2005 limited Medicare payments to oxygen suppliers to 36 months of continuous use and then transferred ownership from provider to the patient. I supported that provision in the DRA and still believe it improved Medicare reimbursement policies. As stated in the September 2006 report by the Office of the Inspector General (OIG) entitled "Medicare Home Oxygen Equipment: Cost and Servicing," an oxygen supplier is reimbursed nearly \$12,000 for furnishing and servicing the oxygen concentrator for 36 months while the average cost of the concentrator is less than \$600.

Under the DRA, Medicare would have paid for necessary repairs and non-routine maintenance of oxygen equipment after ownership was transferred to the patient. I supported this policy because it is very important that oxygen beneficiaries have safe and reliable oxygen equipment and also have access to affordable repair and maintenance services.

The final rule implementing provisions in the MIPPA, however, amended the policy of providing maintenance and repair services to beneficiaries after the 36-month rental period but before the end of the five-year warranty on oxygen equipment. The rule states that since the supplier owns the equipment they should be responsible for keeping it in working order. My concern with this change of policy is specifically for the approximately 22 percent of Medicare beneficiaries who use oxygen equipment for 36 months or longer. It is vital to their health that they have access to the same repair and maintenance services they had previously.

Further, under the final rule, CMS will provide payments for periodic, in-home visits by suppliers to inspect oxygen equipment and provide general maintenance and repair for calendar year 2009 only. I urge CMS to continue providing these payments for routine services in years after 2009. If suppliers are unable to provide these services, the quality of care long-term oxygen patients receive could be in jeopardy.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Neugebauer", with a horizontal line drawn underneath it.

Randy Neugebauer
Member of Congress