

Congress of the United States
Washington, DC 20510

June 20, 2014

Sylvia Matthews Burwell
Secretary of Health and Human Services
The U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Burwell,

We write to urge the Department of Health and Human Services (HHS) to consider the impact of the Affordable Care Act's (ACA) employer responsibility requirements on Medicaid dependent home and community-based providers. These providers in Wisconsin and across the country, which serve primarily Medicaid beneficiaries and operate on very slim margins, have raised unique concerns about complying with the ACA's employer responsibility requirements. We share your commitment to implementing America's new health law in a manner that works for both families and businesses, and request that you explore options to assist Medicaid dependent home and community-based providers in fulfilling the ACA's employer requirements.

Medicaid dependent home and community-based providers play a critical role in our health care system by providing home health and long-term care to our most vulnerable citizens. These providers employ direct care workers who assist hundreds of thousands of people with their daily living needs such as getting out of bed, eating, and bathing, among other important services. Without access to these services, patients would be unable to live independently in their communities and would be forced to seek care in more costly institutional settings.

The challenging economic conditions and tight budget environment have placed significant strain on state Medicaid programs in recent years. As a result, provider payments have been cut or frozen across much of the country. This has had a significant impact on Medicaid dependent home and community-based providers, which already operate on small margins. As such, these providers struggle with providing employer health coverage for their direct care workers and caregiver employees, many of whom qualify for premiums tax credits or other assistance.

We are concerned that Medicaid dependent home and community-based providers could face significant financial burdens in complying with the employer responsibility requirements in the ACA. The penalty for failing to provide health coverage to full-time employees would disproportionately affect these providers and their direct care workers, which may result in unemployment and reduced patient access to essential services. We are encouraged by the Center for Medicare and Medicaid Services and the Department of Treasury's engagement with these providers to date, and we urge you to continue to work with relevant stakeholders to find a viable solution to ensure that direct care workers can continue to provide vulnerable patients with home and community-based services under the ACA.

In light of recent decisions to provide for transition relief with respect to implementing requirements in the new law, we request that HHS fully explore options to support Medicaid dependent home and community-based providers in complying with the ACA's employer responsibility requirements. Thank you for your attention to and timely consideration of this issue, and we look forward to receiving your response.

Sincerely,



Ron Kind
Member of Congress



Tammy Baldwin
United States Senator