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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-5400**

August 15, 2016

The Honorable Sylvia M. Burwell  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Ave, SW  
Washington, DC 20201

The Honorable Andrew M. Slavitt  
Acting Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Ave, SW  
Washington, DC 20201

Dear Secretary Burwell and Administrator Slavitt:

I write regarding CMS-164-P, released by the Centers for Medicare and Medicaid Services on July 15, 2016, which proposes changes to the physician fee schedule and other Medicare Part B payment policies, to take effect on January 1, 2017.

I want to express my gratitude to HHS and CMS for proposing to increase the three geographic pricing cost indices, commonly called GPCIs, so that physicians in Puerto Rico who treat patients enrolled in fee-for-service Medicare are reimbursed in a manner that more closely aligns with the manner in which physicians in the other U.S. territories are reimbursed and that better reflects the actual cost of practicing medicine in Puerto Rico. For years, I have urged HHS and CMS to take administrative action to increase the Physician Work GPCI, the Practice Expense GPCI, and the Malpractice GPCI in Puerto Rico,<sup>1</sup> and so I am very pleased that CMS-164-P proposes to do precisely that. I respectfully urge this proposal to be retained in the final rule.

This proposal does raise one complication that I hope HHS and CMS will immediately address. As you are aware, Puerto Rico is unique insofar as approximately 75 percent of all Medicare-eligible individuals in Puerto Rico receive health insurance through a Medicare Advantage plan,

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<sup>1</sup> See, e.g., Letter from Rep. Pierluisi to HHS and CMS (September 6, 2013), available at <http://pierluisi.house.gov/sites/pierluisi.house.gov/files/9.6.13%20Rep%20Pierluisi%20%28PR%29%20Comment%20Letter%20on%202014%20Physician%20Fee%20Schedule%20Proposed%20Rule%2C%20CMS-1600-P.pdf>; Letter from Rep. Pierluisi to CMS (May 24, 2012), available at [http://pierluisi.house.gov/sites/pierluisi.house.gov/files/wysiwyg\\_uploaded/PDF/letters/2010/5.24.12%20Letter%20to%20CMS%20Administrator%20Tavener%20and%20Deputy%20Administrator%20Blum%20Regarding%20Medicare%20GPCIs%20in%20Puerto%20Rico.pdf](http://pierluisi.house.gov/sites/pierluisi.house.gov/files/wysiwyg_uploaded/PDF/letters/2010/5.24.12%20Letter%20to%20CMS%20Administrator%20Tavener%20and%20Deputy%20Administrator%20Blum%20Regarding%20Medicare%20GPCIs%20in%20Puerto%20Rico.pdf); see also Section 212 of H.R. 2635, *Improving the Treatment of the U.S. Territories Under Federal Health Programs Act of 2015* (Pierluisi; June 3, 2015), which proposes a statutory fix to the GPCI issue in Puerto Rico.

rather than through fee-for-service Medicare—a penetration rate that far exceeds that of any state or sister territory. The MA penetration rate increases to approximately 90 percent when only beneficiaries with both Part A and Part B coverage are considered—that is, when we exclude individuals with solely Part A coverage from the calculation. Furthermore, approximately 97 percent of individuals enrolled in both Medicare and Medicaid in Puerto Rico—known as dual eligibles—are enrolled in an MA plan.

If the final rule retains the GPCI increase for Puerto Rico, this increase will *eventually* be reflected in the per-person monthly payment the federal government makes to MA plans on the island. That is because the per-person monthly payment to MA plans is linked to per capita fee-for-service spending. The problem is that there is a time lag involved. In another jurisdiction, where the MA penetration rate is lower, the adverse impact of this time lag would be modest or minimal. In Puerto Rico, by contrast, it will be extraordinarily significant.

In light of the foregoing, I urge you to explore every option to determine whether you can make a one-time correction to the regulatory cycle so that the per-person monthly payment to Puerto Rico MA plans in 2017 will reflect the increase to fee-for-service spending in the territory as a result of the proposed GPCI increase. This is the only way to ensure that the proposal will have its full, intended, salutary impact on Puerto Rico's health care system. If you conclude that there is absolutely no path to fully incorporate the change into the MA rate in 2017, which I hope is not the case, then I seek your written assurance that the change will be fully incorporated in 2018.

Thank you again for your leadership on this issue, and for your attention to the request contained in this letter.

Sincerely,



Pedro R. Pierluisi  
Member of Congress

cc: The Honorable Sean Cavanaugh, Deputy Administrator, Centers for Medicare and Medicaid Services and Director, Center for Medicare