September ___, 2025

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Speaker Johnson and Leader Jeffries:

We write to express our strong, bipartisan support for policies that preserve Medicare's Hospice Benefit under Original Medicare, including for Medicare Advantage (MA) beneficiaries, which has protected their access to high-quality, timely end-of-life care for nearly three decades. As Congress considers potential reforms to the MA program, we urge you to maintain this critical safeguard and oppose any proposals that would include hospice in the Medicare Advantage program, including repeal or alteration of the Special Rule for Hospice (the Special Rule).

Established under the Balanced Budget Act of 1997, the Special Rule ensures that when an MA beneficiary elects the Medicare Hospice Benefit, payment and administration for hospice services reverts to Original Medicare Part A, while the MA plan remains responsible for unrelated and supplemental services.[1] This framework safeguards patient choice, avoids restrictive networks and administrative barriers, and ensures uninterrupted access to care during the final and most vulnerable phase of life.

Hospice is unlike other Medicare service – it already functions as a form of managed care. Hospices are required to cover all items and services needed by patients to palliate and manage their terminal condition, with the goal of enabling patients to live as comfortably as possible until the end of their life. Adding MA plan management on top of this system would be duplicative and inefficient, creating new administrative barriers without improving care. Hospice care is delivered through a coordinated interdisciplinary team, including physicians, nurses, social workers, and spiritual counselors, who work together to develop and update a comprehensive plan of care.[2] The hospice medical director plays a critical role in determining which services are related to the terminal prognosis and guiding the care plan. Congress affirmed the importance of this clinical authority in the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, which clarified that a physician's certification of

[1] 42 U.S.C. § 1395w–23; Balanced Budget Act of 1997, Public Law 105–33, section 4002.

[2] 42 U.S.C. § 1395x(dd)(2)(B); 42 C.F.R. § 418.56.

terminal illness must be based on clinical judgment about the normal course of the illness.[3] This protects the medical decision-making process from external interference.

MA enrollees who elect hospice currently retain the freedom to choose any Medicare-certified hospice provider, free from network limitations or prior authorization requirements. More than half of hospice beneficiaries pass away within 14 days of election, making delays in care both harmful and unacceptable. Integrating the hospice benefit into MA plan design would jeopardize this access by layering additional managed care terms (or policies) on top of an already managed and coordinated benefit.

In 2021, CMS began testing a new component of the Value Based Insurance Design (VBID) model which added hospice to the Medicare Advantage benefit package. Data revealed challenges such as administrative burdens, difficulty creating networks, and delayed payments for claims. Lower reimbursement rates raised concerns about the financial viability of hospices and decreased access to hospice care. The demonstration did not result in increased or earlier access to hospice or better care coordination. As a result of these challenges, the hospice component of the demonstration was terminated seven years earlier than originally planned. This failed demonstration underscores why Congress must continue to preserve the Special Rule and keep the Medicare Hospice Benefit separate from Medicare Advantage.

Congress has consistently reaffirmed this policy in subsequent Medicare legislation, including the Medicare Modernization Act of 2003 and the Affordable Care Act of 2010.[4] Preserving the Special Rule for Hospice reflects longstanding bipartisan agreement that end-of-life care requires special protections grounded in patient autonomy and clinical expertise.

We respectfully urge you to reject any legislative changes that would weaken the Medicare Hospice Benefit or that would add hospice to Medicare Advantage. The Special Rule is a foundational safeguard that ensures hospice care remains timely, patient-centered, and free from unnecessary administrative interference as Congress intended.

Sincerely,

Neal P. Dunn, M.D.
Member of Congress

Ami Bera, M.D.
Member of Congress

[3] Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, Public Law 106–554, section 322(a)(1), codified at 42 U.S.C. § 1395f(a).
[4] Medicare Modernization Act of 2003, Public Law 108–173; Affordable Care Act of 2010, Public Law 111–148.