

Congress of the United States

Washington, DC 20515

July 28, 2023

The Honorable Chiquita Brooks-LaSure
Administrator,
Centers for Medicare & Medicaid Services
7500 Security Boulevard,
Baltimore, MD 21244

Dear Administrator Brooks-LaSure,

We urge you to ensure that millions of Americans, especially seniors, continue to have access to the lifesaving supplemental oxygen therapy without additional physician visits and testing to meet documentation requirements waived during the PHE. Moreover, we ask that the Centers for Medicare & Medicaid Services (CMS) provide an objective set of clinical data elements, such as those in the templates on the CMS website, to avoid claims being denied based on physician's medical record notes.

Approximately one million beneficiaries began supplemental oxygen and respiratory therapies during the PHE and will continue to require these services. The reauthorization process would overload the already stressed healthcare system, requiring patients who utilize these services to repeat their therapy qualification process. This would especially place an undue burden on rural patients. We therefore write to request that auditors accept the standard written order (SWO) as the only necessary documentation to establish medical necessity when auditing claims of patients who received home oxygen, sleep therapy, or non-invasive ventilation equipment.

We are also concerned that the policy of medical record review outlined in the oxygen national coverage determination and related local coverage determinations will take full effect. If CMS allows contractors to rely only upon physicians' medical record notes, a vast majority of patient claims will be denied, creating access issues for beneficiaries. CMS already created the oxygen clinical data element templates which are more practical in assessing coverage needs. We therefore urge CMS to require contractors to use these templates, along with the standard written order in lieu of medical record notes when determining medical necessity.

Beneficiary access to life-sustaining supplemental oxygen and other respiratory therapies should not be placed at risk. We urge CMS to promptly intervene as patients are at risk of losing access to live-saving supplementary oxygen therapy.

We appreciate your attention to this important matter and look forward to your response.

Sincerely,



Terri A. Sewell
Member of Congress



Adrian Smith
Member of Congress



Deborah K. Ross
Member of Congress



Donald G. Davis
Member of Congress



Brian Fitzpatrick
Member of Congress



Gus M. Bilirakis
Member of Congress



Larry Bucshon, M.D.
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Diana Harshbarger
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