

Congress of the United States
Washington, DC 20515

February 26, 2020

Mr. Paul J. Ray
Administrator,
Office of Information and Regulatory Affairs (OIRA)
Office of Management and Budget (OMB)
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Administrator Ray:

We are writing to encourage the President to delay any and all action on the proposed request for information (RFI) and potential rulemaking addressing the Medicaid requirement for states to provide non-emergency medical transportation (NEMT) for beneficiaries outlined in the Fall 2019 OMB Unified Agenda (RIN: 0938-AT81). Under this revised schedule, CMS intends to accelerate its timeline and publish an RFI early this year, and a proposed rule possibly by December 2020, as opposed to a proposed rule in December 2021 as indicated in the Spring 2019 OMB Unified Agenda.

NEMT has been a mandatory benefit by regulation since the Medicaid program's inception in 1966. The NEMT benefit, which provides the country's most vulnerable patients with over 100 million rides to medical services annually, allows people with chronic conditions to access life-saving treatment for end-stage renal disease, cancer, or substance use disorder. NEMT also provides hundreds of thousands of children (18 percent of all riders) access to checkups, vaccines, and other pediatric care. Overall, the benefit is used by seven percent of beneficiaries but accounts for less than one percent of total Medicaid spending.

While we support flexibility for states, we do not support overturning a Medicaid policy in place for over 50 years without a careful examination of the consequences affecting our most vulnerable constituents. The Congress shares this view. Division A of P.L. 116-94, signed by President Trump on December 20, 2019, directs the Department of Health and Human Services to take no regulatory action on availability of NEMT service until the Medicaid and CHIP Payment and Access Commission (MACPAC) completes a study of the benefits of NEMT on Medicaid beneficiaries. Language within the Explanatory Statement for Division A (on page 155) reads:

Within the amount provided, the agreement provides \$300,000 for MACPAC to examine, to the extent data are available, the benefits of NEMT from State Medicaid programs on Medicaid beneficiaries, including beneficiaries with chronic diseases including end stage renal disease (ESRD), substance abuse disorders, pregnant mothers, and patients living in

remote, rural areas, and to examine the benefits of improving local coordination of NEMT with public transportation and other Federally-assisted transportation services. The agreement directs HHS to take no regulatory action on availability of NEMT service until the study is completed.

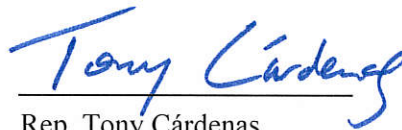
Given direction provided in P.L. 116-94, we strongly urge the President to delay further action on the RFI and any related actions pertaining to the proposed rulemaking at this time. Once completed, the MACPAC study will better inform any potential future rulemaking process undertaken by the Administration.

Thank you for your timely attention to this critical matter. We remain available to address any questions or concerns.

Sincerely,



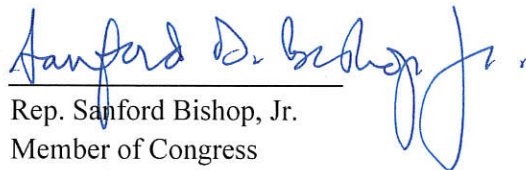
Rep. Earl L. "Buddy" Carter
Member of Congress



Rep. Tony Cárdenas
Member of Congress



Rep. Tom Graves
Member of Congress



Rep. Sanford Bishop, Jr.
Member of Congress

cc: Mr. Eric M. Ueland, Assistant to the President and Director, Office of Legislative Affairs
Mr. Ben Howard, Deputy Assistant to the President and House Deputy Director of
Legislative Affairs