The Honorable Lamar Alexander  
United States Senate  
Washington, DC 20510

Dear Senator Alexander:

Thank you for your letter concerning audits conducted by the state of Tennessee of enhanced Medicaid payments made to eligible primary care physicians. These payments were required by the Affordable Care Act during calendar years 2013 and 2014. In your letter, you discuss concerns from physicians in Tennessee who are facing recoupments of payments because of confusion over the 60 percent threshold used to determine eligibility for the increased payments.

We understand your concern that this situation may be having an adverse impact on providers in Tennessee. It is unfortunate that these providers were not fully aware of the qualifying criteria set forth in the regulation. These criteria were crafted to ensure that the higher payment went to all primary care physicians who actually practice in the statutorily identified categories. Tennessee is properly applying the criteria in identifying providers who were not eligible for higher payment under the federal rule. All states are required to audit payments made under the program and, once overpayments are identified, recoupments must be made in a timely manner.

The qualifying criteria were issued through the federal rule-making process. All affected parties thus had notice and an opportunity to comment on these policies. In addition, considerable efforts were made to inform states of the eligibility policies. Specifically, the Centers for Medicare & Medicaid Services (CMS) published the proposed regulation describing the eligibility criteria for this program on May 11, 2012, and provided a 30 day public comment period. Both the proposed regulation and the final rule described the formula and how the threshold was to be determined. CMS also published six sets of questions and answers to assist states and providers to understand the manner in which the program was to be implemented. Those documents were posted on the CMS website and were also distributed to State Medicaid agencies.

While CMS is not considering alternate interpretations of the regulations or guidance, we have determined that, because Tennessee provides Medicaid services through managed care, there may be options that can be explored with the state that could mitigate the impact on providers.
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Should you have additional questions, please contact the CMS Office of Legislation at 202-690-8220. I will also provide this response to the co-signers of your letter.

Sincerely,

Andrew M. Slavitt
Acting Administrator