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April 20, 2020

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Administrator Verma:

We write regarding our concerns about the March 13, 2020, Centers for Medicare and Medicaid Services (CMS) guidance on access to the Long-Term Care Ombudsman Program (Ombudsman program) in response to the COVID-19 pandemic. The Committee has reached out to CMS multiple times to request clarification of its plans to align its guidance with current law and the authority CMS was relying on to allow facilities to restrict access to the Ombudsman program in the guidance.<sup>1</sup> To date, we have not received a response.

When the guidance was released on March 13, 2020, it was unclear what authority CMS was relying on to put forth any access restrictions to the Ombudsman program. Currently, Title VIII of Division B of the recently passed Coronavirus Aid, Relief, and Economic Security Act (CARES Act) provides "that State Long-Term Care Ombudsman shall have continued direct access (or other access through the use of technology) to residents of long-term care facilities during any portion of the public health emergency relating to coronavirus" until September 30, 2020. As a result, regardless of whether CMS had authority to issue the access restrictions in its March 13, 2020, guidance, the guidance is now in conflict with current law. Therefore, we request that CMS provide us with a timeline of when it plans on aligning its guidance with the law. If CMS does not plan to do so, we request a detailed explanation for the decision to not change the guidance.

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<sup>1</sup> Memorandum from Centers for Medicare and Medicaid Services on Guidance for Infection Control and Prevention of Coronavirus Disease 2019 (COVID-19) in Nursing Homes (Mar. 13, 2020) (on file with author), <https://www.cms.gov/files/document/3-13-2020-nursing-home-guidance-covid-19.pdf>

The Honorable Seema Verma

April 20, 2020

Page 2

Please provide the requested information as soon as possible, but no later than April 24, 2020. If you have any questions, please contact Cathy Yu at Cathy [Yu@mail.house.gov](mailto:Yu@mail.house.gov). Please direct all official correspondence to the Committee's Chief Clerk at [Tylease.Alli@mail.house.gov](mailto:Tylease.Alli@mail.house.gov). Thank you for your attention to this matter, and we look forward to your response.

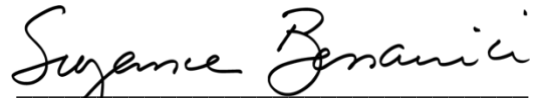
Sincerely,



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ROBERT C. "BOBBY" SCOTT

Chair



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SUZANNE BONAMICI

Chair

Subcommittee on Civil Rights and Human  
Services