

Congress of the United States
Washington, DC 20515

September 17, 2020

The Honorable Alex M. Azar II
U.S. Department of Health & Human Services
200 Independence Avenue, S.W
Washington, D.C. 20201

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar and Administrator Verma:

As the Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS) continue to respond to the COVID-19 pandemic, the opioid epidemic continues to wreak havoc on communities across West Virginia. We write to express concerns over the Administration's plans to implement the SUPPORT Act Section 1006(b) Medication-Assisted Therapy (MAT) drug coverage mandate as disqualifying MAT drugs from Medicaid rebates starting October 1, 2020.

As you know, the opioid epidemic remains a public health emergency and is worsened by the coronavirus PHE. Access to treatment is as critical as it was when the SUPPORT Act was enacted. As states grapple to accommodate increasing health costs in the face of decreasing revenue, it is essential the Administrative approach its SUPPORT Act implementation in a manner that empowers the states to effectively address the dual public health crises they face.

Section 1006(b) of the SUPPORT Act was intended to address the fact that several states were not covering all forms of MAT with a five-year coverage mandate. The provision sought to ensure Medicaid beneficiaries retained access to office-based MAT and that all states also covered care delivered by opioid treatment programs (OTPs), such as methadone clinics.

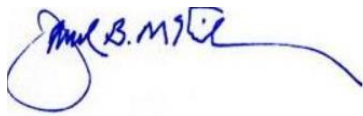
The Centers for Medicare & Medicaid Services (CMS) and its Office of General Counsel have conveyed to stakeholders that Sec. 1006(b) requires state Medicaid programs to not only ensure coverage of methadone in OTPs as well as office-based MAT, but that they do so *without the financial support ordinarily received from manufacturers in the form of statutory and supplemental Medicaid rebates*. We have assured health system leaders in our states that Congress did not intend to simultaneously increase state coverage obligations and reduce Medicaid revenue sources.

We strongly encourage HHS and CMS to act quickly and decisively to utilize the types of flexibilities the Administration has implemented to address the coronavirus PHE to avoid the

grim clinical implications of CMS' statutory interpretation. The SUPPORT Act was intended to facilitate resolution of the opioid use epidemic. We must ensure no actions are taken that would unnecessarily impede movement towards that goal, especially now as we face both this and the COVID-19 pandemic.

Thank you for your prompt consideration of this matter. We look forward to working together on a timely and effective solution.

Sincerely,



David B. McKinley P.E.
Member of Congress



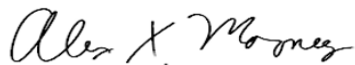
Shelley Moore Capito
United States Senator



Carol D. Miller
Member of Congress



Joe Manchin III
United States Senator



Alex X. Mooney
Member of Congress