**PRESERVE AND PROTECT THE MEDICARE HOSPICE BENEFIT**  
Support the HELP Hospice Act [S. 1053/H.R. 2302]

**Action Requested:** The hospice community is deeply concerned about the effect further modifications to the Medicare hospice benefit will have on quality patient care and access to these valuable services. We ask that the 113th Congress support the Hospice Evaluation and Legitimate Payment (HELP) Act, legislation that will (1) require the Secretary to establish a payment reform demonstration program to test and evaluate any prospective payment revisions to hospice, (2) increase hospice survey frequency to every 3 years, and (3) amend the new face-to-face encounter requirement to reflect operational realities for hospice programs, and the needs of the patients and families they serve. The HELP Hospice Act has been reintroduced by Senators Wyden and Roberts, and expected to be introduced soon in the house by Representatives Reed and Thompson. The legislation had robust bipartisan, bicameral support in the 112th Congress.

1. **Sensible Hospice Payment Reform**  
The ACA included a MedPAC recommendation to transfer hospice payment authority from Congress to the Secretary of Health and Human Services. MedPAC also recommended, and the ACA statute required, the Secretary to collect and analyze extensive data prior to implementing a new payment system for hospice, on or after fiscal year 2014. Noting a lack of reliable, comprehensive data upon which to base a new payment methodology and the volatility being experienced due to multiple reimbursement cuts,

_The hospice community calls upon Congress to direct the Secretary to pilot any new payment methodology first through a two-year, 15-site demonstration program._ This approach would help to overcome the current lack of reliable, comprehensive data upon which HHS can rely to evaluate potential payment methodologies. A pilot program allows for any recommended payment reform schemes to be tested across a representative sample of the hospice community to assess their impact on beneficiary access to hospice services.

**COST:** $3 million for the 2012-2021 budget forecast period¹.

2. **More Frequent Hospice Surveys**  
An HHS Office of the Inspector General (OIG) report² found that the current certification system for hospice was not providing sufficient oversight relative to other Medicare providers. OIG noted that “the frequency of hospice certification is far different from the certification frequencies required by nursing homes, hospitals, and home health agencies” and recommended regulatory or statutory changes to increase certification frequency. According to the report, the majority of hospices were surveyed within 6 to 8 years (depending upon available resources), while almost 15 percent averaged 3 years past due.

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¹ All cost estimates in this document are based on a Moran Company assessment of budgetary implications of the hospice proposal, available upon request.  
The hospice community urges Congress to institute a 3-year survey frequency requirement. This recommendation is consistent with the survey industry standard for hospices set forth by accrediting organizations, such as the Joint Commission for the Accreditation of Healthcare Organizations (JCAHO).

**COST:** No cost under OMB score keep guideline 14.3.

### 3. Hospice Face-to-Face Encounter Adjustments

The ACA included the MedPAC recommendation to require a hospice physician or nurse practitioner to have a face-to-face encounter with a hospice patient upon election of the Medicare hospice benefit, before the end of 180-day recertification period and again for each 60-day recertification after that date. The hospice community supports the intent of the face-to-face encounter requirement and is working hard to be in compliance, even as the requirement stretches hospice physician and nurse practitioner resources.

The hospice community is asking that Clinical Nurse Specialists and Physician Assistants also be allowed to conduct the face-to-face encounter, and that hospice programs be afforded 7 days after the initial election of services to fulfill the requirement. The current limits on who can conduct the face-to-face encounter and the tight timelines specified in the rule for compliance do not reflect the operational constraints of hospice programs, especially for small and rural hospices. Hospices may be forced to turn down certain patients seeking to elect hospice if they feel they will not be able to comply with the present timeline required to conduct the initial face-to-face encounter requirement.

**COST:** No cost associated with modifications to the face-to-face encounter requirement.

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3 OMB Circular A-11: "No increase in receipts or decrease in direct spending will be scored as a result of provisions of a law that provides direct spending for administrative or program management activities.”