

August 11, 2023

Connie Leonard  
Director, Provider Compliance Group

Amy Cinquegrani  
Director, Division of Payment Methods & Strategies

Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850

**Re: Joint IRF Stakeholder Request for Immediate IRF Review Choice Demonstration Delay**

Dear Ms. Leonard and Ms. Cinquegrani:

On behalf of the undersigned organizations and the rehabilitation hospitals, physicians, and patients we represent, we write to urge the Centers for Medicare & Medicaid Services (CMS) to immediately delay the Inpatient Rehabilitation Facility (IRF) Review Choice Demonstration (RCD) following the departure of the rehabilitation physician charged with overseeing the first phase of the demonstration. Only twenty days before the start of the demonstration, we became aware that Dr. Jesse Lieberman was no longer employed with Palmetto GBA. The importance of Dr. Lieberman's role was repeatedly cited by CMS Center for Program Integrity (CPI) officials as a way of ensuring the accuracy of medical reviews and protecting patient access to medically necessary rehabilitation care. His departure therefore raises serious and immediate issues relating to how medical reviewers will be educated and trained, and most critically, how final medical necessity determinations will be made without the oversight of a physician specializing in rehabilitation medicine. These concerns are amplified by the scope of this demonstration, as nearly every traditional Medicare beneficiary in Alabama now faces the risk that medically necessary IRF care (as determined by their treating physician) may be inappropriately denied. We believe the importance of rehabilitation physician leadership within this demonstration, coupled with the demonstration's direct impact on patient care and access, compels CMS to delay this program until Palmetto hires and appropriately onboards a rehabilitation physician. Given the impending start of the demonstration project on August 21<sup>st</sup>, we ask CMS to confirm such a delay as soon as possible.

Unlike other demonstration programs of this nature, these admission determinations are for individuals who require specialized, ongoing hospital-level care due to a serious injury or illness. In addition, IRF RCD will review every traditional Medicare admission to an Alabama IRF (before expanding to other states) and continues focused reviews for the next several years. Thus, it will be critical that medical reviews are performed under the supervision of a properly trained rehabilitation physician to avoid inappropriate denials and disruptions in access to IRF services. As CMS itself noted in presentations leading up to the Review Choice Demonstration,<sup>1</sup> Dr. Lieberman was charged with "direct[ing] *all clinical review, training and education activities for both providers and Palmetto GBA clinicians,*" being "available for *all questions and concerns*" raised by IRFs, and "facilitating ... case studies with medical reviewers to *ensure consistent application of Medicare guidelines,*" among other tasks. These are critically important duties that can *only* be performed by a full-time rehabilitation physician. Utilizing contract physicians or contractor staff without training and expertise in medical rehabilitation will

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<sup>1</sup> As a related matter, we are alarmed that the materials with this language were removed from CMS' site following Dr. Lieberman's departure despite being initially offered to IRF stakeholders as important educational material.

facilitate inconsistent and inaccurate review determinations – all to the detriment of beneficiaries and their providers. Given CMS’ own assertions about the scope and importance of the rehabilitation physician role, we believe Dr. Lieberman’s departure must immediately trigger a delay in the demonstration and an immediate focus on identifying and training his successor.

For a demonstration of this nature, the importance of Dr. Lieberman’s role cannot be overstated. One of the most significant concerns regarding the demonstration at this stage involves mid-stay medical-necessity-based denials that may be rendered by Palmetto while a patient has already begun their IRF course of treatment. Dr. Lieberman’s repeated assertions that he would be available to discuss the clinical rationale behind *each* denial was viewed as a critical safeguard by each of our associations, and aligned with CMS’ own assertions that the demonstration is not intended to impact patient access to medically necessary care. While the lack of specific inpatient rehabilitation experience of other contractor staff remains a serious issue within the demonstration, having a rehabilitation physician such as Dr. Lieberman (with 10+ years at a nationally acclaimed IRF) helped address some of our most acute concerns.

While our organizations have received limited information surrounding Dr. Lieberman’s departure, we understand he was employed by Palmetto as the rehabilitation physician overseeing the RCD for roughly three months. Even within that short time, Dr. Lieberman had to gain a detailed understanding of a complex (and continually evolving) demonstration program, engage in extensive training and education of Palmetto staff, and prepare to play a role in every medical necessity-focused denial.<sup>2</sup> As Palmetto looks to find a rehabilitation physician to serve these functions, our organizations emphasize that this type of demonstration-focused onboarding is arguably almost as important as the physician’s rehabilitation experience. As such, an effective delay encompasses *not only* the hiring of a rehabilitation physician with sufficient education and expertise, but also ensuring that such physician has appropriate training specific to this program (based on Dr. Lieberman’s experience, we expect this would be no shorter than 3 months).

In closing, we ask that CMS take time-sensitive action in response to our request given the imminent start date for this demonstration. In addition to all the reasons why Dr. Lieberman’s departure compels a delay, such a delay would also allow IRF stakeholders additional time to review and discuss RCD guidance materials that were only released in recent weeks (and amended and re-released in recent days). Our organizations have worked closely with both CMS and Palmetto GBA in recent months leading up to the start of the demonstration, and we stand ready to be similarly engaged over the time period needed for an effective hire and appropriate onboarding.

Sincerely,

American Academy of Physical Medicine & Rehabilitation  
Alabama Hospital Association  
American Hospital Association  
American Medical Rehabilitation Providers Association  
Federation of American Hospitals  
Brain Injury Association of America  
Christopher & Dana Reeve Foundation  
Falling Forward Foundation  
United Spinal Association

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<sup>2</sup> This was discussed at the July 2023 Open Door Forum; the transcript is available [here](#).