

**PAUL A. GOSAR, D.D.S.**  
FOURTH DISTRICT, ARIZONA

504 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, D.C. 20515  
(202) 225-2315

122 N. CORTEZ STREET, SUITE #104  
PRESCOTT, AZ 86301  
(928) 445-1683

270 E. HUNT HIGHWAY, SUITE #12  
SAN TAN VALLEY, AZ 85143  
(480) 882-2697

220 N. 4TH STREET  
KINGMAN, AZ 86401  
(928) 445-1683

WWW.GOSAR.HOUSE.GOV



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0301**

June 17, 2014

**COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM**

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WATER AND POWER

The Honorable Sylvia Burwell  
Secretary  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Burwell:

We are writing you to express our concerns regarding the Recovery Audit Contractor (RAC) program, and how the punitive activities of these audits within the Center for Medicaid and Medicare Services (CMS) have created a significant backlog in appeals. We believe that an improved process with a focus on provider education will not only reduce instances of fraud, but also ensure that our needy and elderly population will continue to receive quality healthcare.

As you know, the Recovery Audit Contractor program has been criticized for overzealous and punitive decisions by the medical provider and hospital community since its inception in 2010. While CMS has recognized some of the shortcomings of the Medicare RAC auditing process, there are concerns that the Medicaid RAC audits, which were authorized as a result of the Affordable Care Act, will be similarly flawed.

Although many states have yet to fully implement the Medicaid RAC audits, it has come to our attention that there are already significant concerns in states that have begun these audits. Contributing to the sense of unfairness is the fact that practitioners are subject to a 3-year look back rule for overpayments based on an audit of less than 1 percent of the claims submitted, while those same practitioners are limited to a case-by-case review of underpayments that must be submitted within 120 days of remittance.

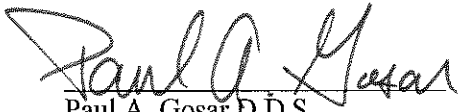
We request that CMS:


- Examine the Medicaid RAC programs that have been implemented across the states and assess the impact such audits have had on physicians and dentists enrolled in the program and subsequent patient access to services.
- Compile a list of state education and outreach efforts on Medicaid RAC audits to determine the depth of provider education needed to function well within the Medicaid program. Provide technical assistance to physicians and dentists to enable them to better understand and comply with RAC audit requirements.
- Issue guidelines to help ensure such education takes place consistent with the final rule on Medicaid RAC programs, published September 16, 2011, requiring states to provide education and outreach to providers.
- Issue guidelines to establish a uniformly fair, transparent process concerning how and when extrapolation should be used to determine fines and to recommend the use of an in-state practitioner with comparable education in the same field to review clinical records where appropriate.

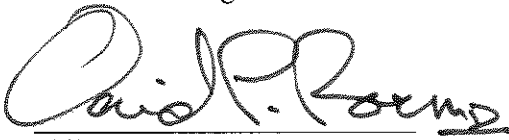
We recognize that fraud is a problem that compromises the limited resources available for Medicaid programs across the country. We are requesting that you and your staff consider opportunities to provide guidance concerning Medicaid RAC audits to ensure that they are fair, transparent, and allow medical practitioners the opportunity to learn how to fully operate under applicable regulation rather than moving forward with a process that aims simply to penalize providers financially.


Thank you for your consideration on our request.

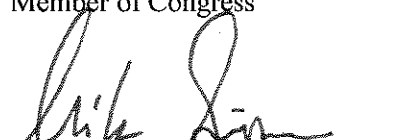
Sincerely,


  
Paul A. Gosar D.D.S.  
Member of Congress


  
Matt Salmon  
Member of Congress

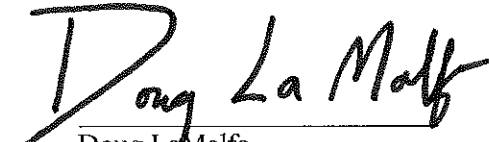
  
Phil Roe M.D.  
Member of Congress


  
Todd Rokita  
Member of Congress

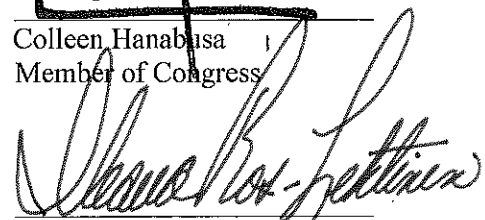
  
Mike Simpson D.D.S.  
Member of Congress


  
Keith Rothfus  
Member of Congress

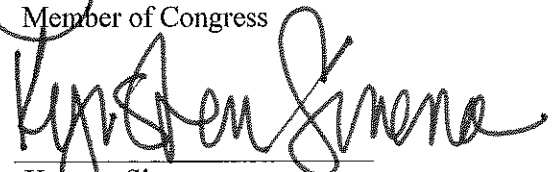
  
Cynthia Lummis  
Member of Congress

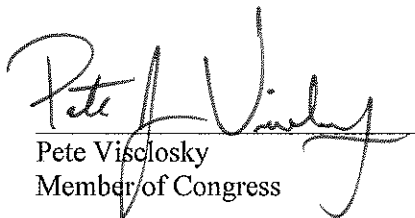
  
Doug LaMalfa  
Member of Congress

  
Colleen Hanabusa  
Member of Congress

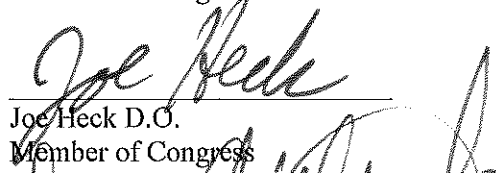
  
Ileana Ros-Lehtinen  
Member of Congress

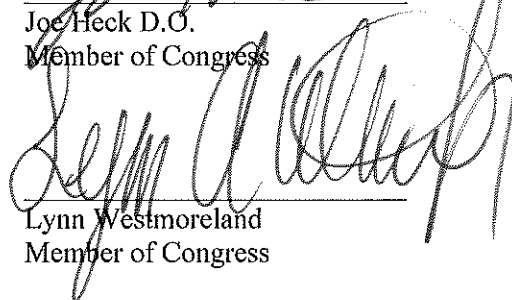
  
David McKinley  
Member of Congress

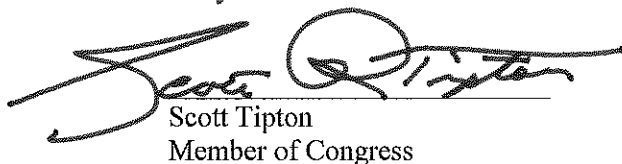
  
Kyrsten Sinema  
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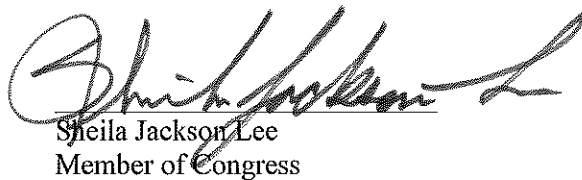
  
Pete Visclosky  
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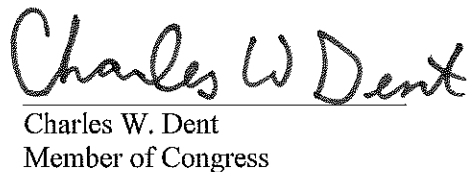
  
Bill Johnson  
Member of Congress

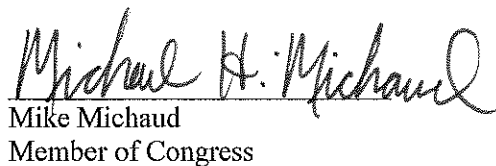
  
Joe Heck D.O.  
Member of Congress

  
Lynn Westmoreland  
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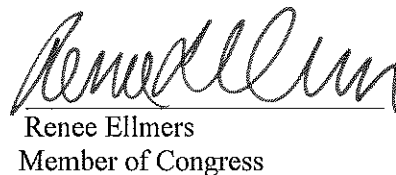
  
Scott Tipton  
Member of Congress

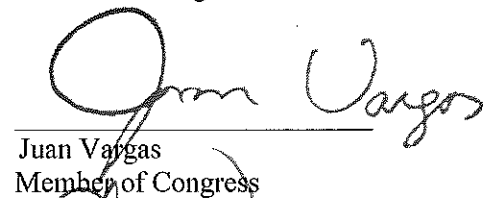
  
Sheila Jackson Lee  
Member of Congress

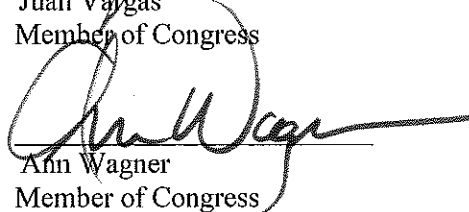
  
Charles W. Dent  
Member of Congress

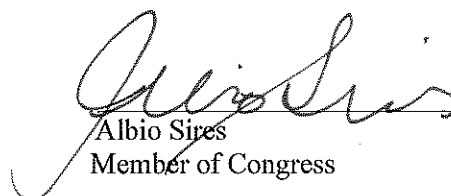
  
Mike Michaud  
Member of Congress

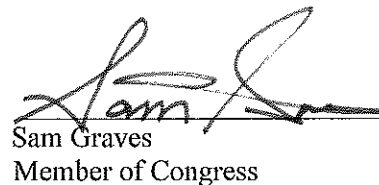
  
Rich Nugent  
Member of Congress

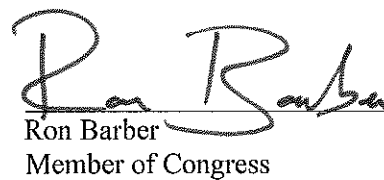
  
Renee Ellmers  
Member of Congress

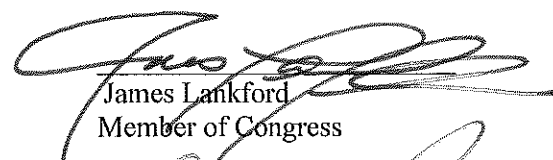
  
Juan Vargas  
Member of Congress

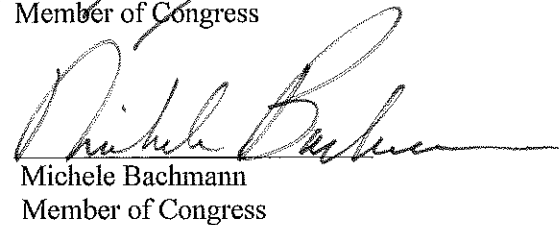
  
Ann Wagner  
Member of Congress

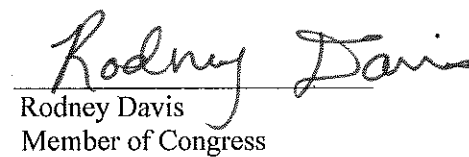
  
Albio Sires  
Member of Congress

  
Sam Graves  
Member of Congress

  
Ron Barber  
Member of Congress

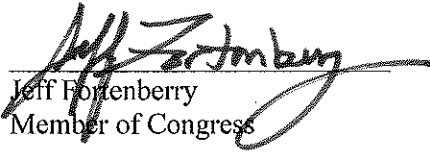
  
James Lankford  
Member of Congress

  
Michele Bachmann  
Member of Congress

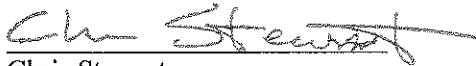
  
Rodney Davis  
Member of Congress



Jim Gerlach  
Member of Congress



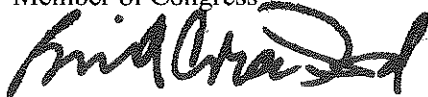
Jeff Fortenberry  
Member of Congress



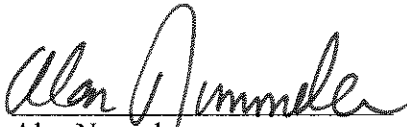
Chris Stewart  
Member of Congress



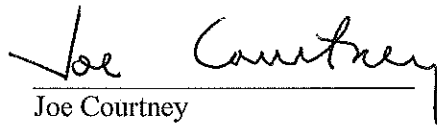
Wm. Lacy Clay  
Member of Congress



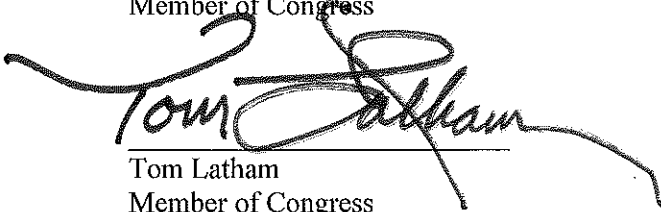
Rick Crawford  
Member of Congress



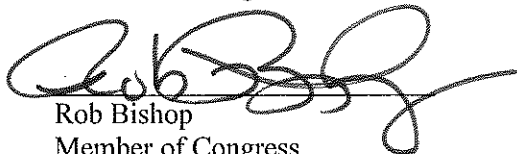
Alan Nunnelee  
Member of Congress



Joe Courtney  
Member of Congress



Tom Latham  
Member of Congress



Rob Bishop  
Member of Congress



Markwayne Mullin  
Member of Congress



Rob Woodall  
Member of Congress



Howard Coble  
Member of Congress



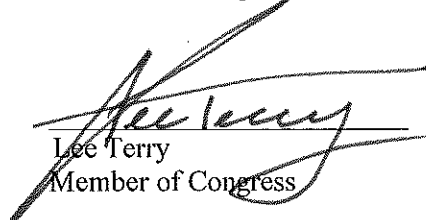
Betty McCollum  
Member of Congress



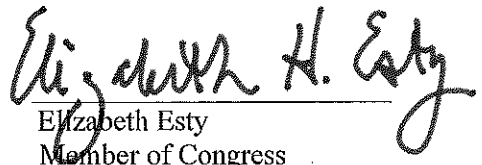
Mark Meadows  
Member of Congress



Mike Pompeo  
Member of Congress



Lee Terry  
Member of Congress



Elizabeth Esty  
Member of Congress



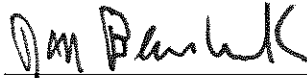
Bruce Braley  
Member of Congress



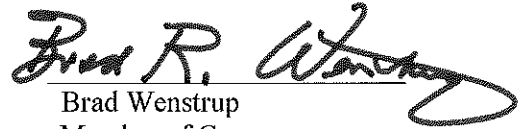
Steve Stivers  
Member of Congress



Pete Olson  
Member of Congress



Dan Benishek M.D.  
Member of Congress



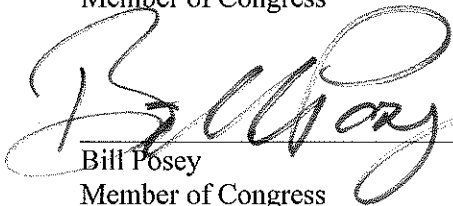
Brad Wenstrup  
Member of Congress



Collin Peterson  
Member of Congress



Dave Loebsack  
Member of Congress



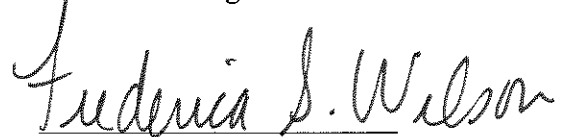
Bill Posey  
Member of Congress



David Scott  
Member of Congress



Lois Frankel  
Member of Congress



Frederica S. Wilson  
Member of Congress



Tulsi Gabbard  
Member of Congress



Tammy Duckworth  
Member of Congress



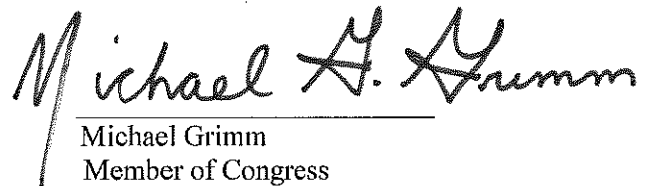
Marsha Blackburn  
Member of Congress



Cheri Bustos  
Member of Congress



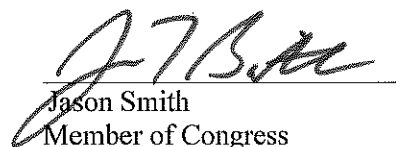
Joe Wilson  
Member of Congress



Michael Grimm  
Member of Congress



Mike Coffman  
Member of Congress



Jason Smith  
Member of Congress

*Thomas Massie*

Thomas Massie  
Member of Congress

*CPM*

Chris Gibson  
Member of Congress

*Doug Lamborn*

Doug Lamborn  
Member of Congress

*Gregg Harper*

Gregg Harper  
Member of Congress

*David P. Joyce*

David Joyce  
Member of Congress

*Luke Messer*

Luke Messer  
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*Robert Latta*

Robert Latta  
Member of Congress

*Billy Long*

Billy Long  
Member of Congress