

# Congress of the United States

Washington, DC 20515

June 21, 2023

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

The Honorable Chiquita Brooks-LaSure  
Administrator  
U.S. Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, M.D. 21244

Dear Secretary Becerra and Administrator Brooks-LaSure:

We write to thank the U.S. Centers for Medicare & Medicaid Services (CMS) for taking action toward ensuring timely access to health care by proposing rules to streamline prior authorization (PA) protocols for individuals enrolled in federally-sponsored health insurance programs, including Medicare Advantage (MA) plans.<sup>1, 2, 3</sup> We urge CMS to promptly finalize and implement these changes to increase transparency and improve the prior authorization process for patients, providers, and health plans. We also urge CMS to expand on these proposed rules by: (1) establishing a mechanism for real-time electronic prior authorization (e-PA) decisions for routinely approved items and services; (2) requiring that plans respond to PA requests within 24 hours for urgently needed care; and (3) requiring detailed transparency metrics.

We appreciate that the rules CMS proposed in December 2022 concerning PA attempt to strike a balance between program integrity and patient access to care. While we agree that PA, when used appropriately, is an important tool for payers to manage costs and ensure program integrity, we support CMS's efforts to protect beneficiaries, increase transparency around PA requirements, and streamline this process for patients, providers, and health plans.

We are pleased that these proposed rules align with the bipartisan, bicameral *Improving Seniors' Timely Access to Care Act*, which proposes a balanced approach to prior authorization in the MA program that would remove barriers to patients' timely access to care and allow providers to

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<sup>1</sup> U.S. Centers for Medicare and Medicaid Services (CMS), Advancing Interoperability and Improving Prior Authorization Processes for MA Organizations and Medicaid Managed Care Plans, State Medicaid Agencies, State CHIP Agencies, CHIP Managed Care Entities, and Issuers of QHPs in the Federally-Facilitated Exchanges (CMS-0057-P), December 13, 2022, <https://www.federalregister.gov/documents/2022/12/13/2022-26479/medicare-and-medicare-programs-patient-protection-and-affordable-care-act-advancing-interoperability>.

<sup>2</sup> CMS, Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024 (CMS-2022-0191), December 27, 2022, <https://www.federalregister.gov/documents/2022/12/27/2022-26956/medicare-program-contract-year-2024-policy-and-technical-changes-to-the-medicare-advantage-program>.

<sup>3</sup> CMS, Adoption of Standards for Health Care Attachment Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Standard (CMS-0053-P), December 21, 2022, <https://www.federalregister.gov/documents/2022/12/21/2022-27437/administrative-simplification-adoption-of-standards-for-health-care-attachments-transactions-and>.

spend more time treating patients and less time on paperwork. Specifically, both the legislation and CMS's recent proposals would:

- establish an e-PA process for MA plans;
- accelerate PA decision time frames;
- reduce the administrative burden for both providers and health plans;
- increase transparency around PA requirements and clinical information needed to support decisions; and
- expand beneficiary protections to improve patient experiences and outcomes.

We encourage CMS to build on the e-PA proposal in the final rule by incorporating a mechanism for real-time decisions for routinely approved items and services. This mechanism would improve patient care and reduce provider burden while avoiding unnecessary delays. Hundreds of organizations representing patients, physicians, hospitals, and other health care experts have put their support behind an e-PA proposal that *includes* a real-time process for items and services that are routinely approved.

As you know, the health insurance industry has been actively working towards real-time decisions through automation and artificial intelligence from end-to-end.<sup>4</sup> The software market for providing these services is competitive, offering several platforms for health care providers and payers where a real-time decisions tool is available today. Based on industry growth (due to market demand), robust evidence continues to demonstrate that implementing real-time decisions produces cost savings for health care providers and health plans.<sup>5</sup>

We also encourage you to build on the proposed rule's goal of shortening decision timeframes by reducing the deadline for responding to expedited prior authorization requests from 72 hours to 24 hours to ensure urgently needed care is not delayed. We are concerned that delaying care for up to three days could jeopardize a patient's life, health, or ability to regain maximum function. Further, we ask that you build upon the goal of increasing transparency by aligning the final rule's data collection requirements with the information reporting requirements outlined in Section 2 of the *Improving Seniors' Timely Access to Care Act*.

These policies: (1) a mechanism for real-time prior authorization decisions for routinely approved services, (2) a deadline of 24 hours for MA plans to respond to prior authorization requests for urgently needed care, and (3) requiring detailed transparency metrics are in line with the *Improving Seniors' Timely Access to Care Act*, which has received significant bipartisan support from members of Congress and endorsements from more than 500 organizations engaged in this work.<sup>6</sup>

We urge you to finalize these important updates to prior authorization processes in a manner that reflects the *Improving Seniors' Timely Access to Care Act* as quickly as possible in order to improve access to health care for patients. We appreciate your engagement on these policies and

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<sup>4</sup> CAQH, Working Together: Advances in Automation During Unprecedented Times, 2021, <https://www.caqh.org/sites/default/files/explorations/index/2021-caqh-index.pdf>.

<sup>5</sup> Global Market Estimates, Global Prior Authorization Software Market Size, Trends & Analysis - Forecasts to 2028, April 13, 2023, <https://www.globalmarketestimates.com/market-report/prior-authorization-software-market-3904>.

<sup>6</sup> Regulatory Relief Coalition, Supporters, accessed April 20, 2023, <https://www.regrelief.org/support/>.

encourage you to continue working on policies that increase the efficiency and transparency of the process for patients to receive care.

Thank you again for your dedication to this matter.

Sincerely,



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Suzan K. DelBene  
Member of Congress



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Mike Kelly  
Member of Congress



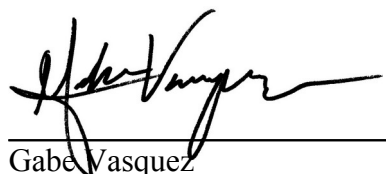
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Ami Bera, M.D.  
Member of Congress



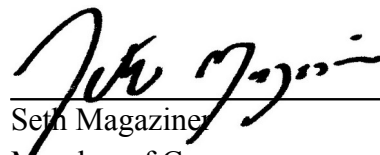
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Larry Bucshon, M.D.  
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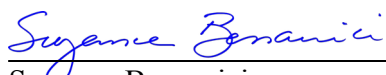
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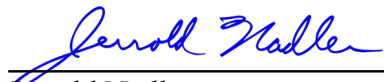
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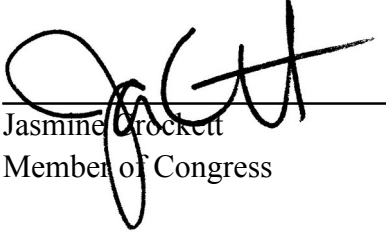
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Mike Bost  
Member of Congress



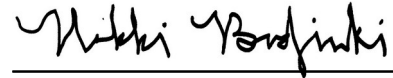
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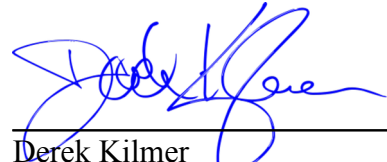
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Kathy E. Manning  
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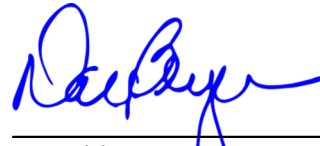
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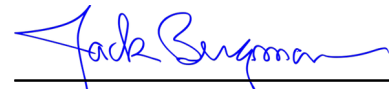
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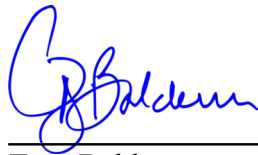
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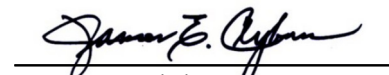
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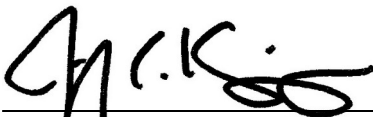
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Zoe Lofgren  
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A. Drew Ferguson IV  
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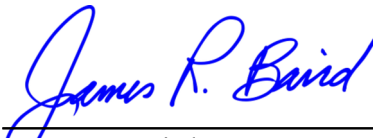
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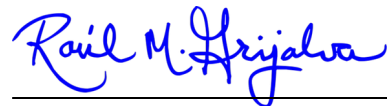
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Glenn "GT" Thompson  
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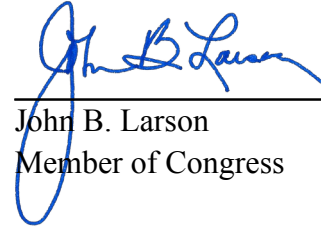
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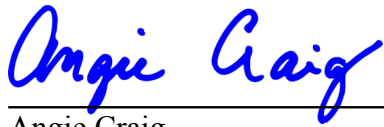
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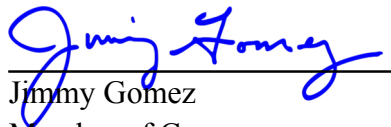
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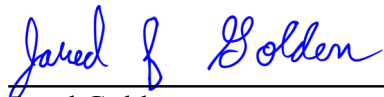
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Jake Auchincloss  
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Al Green  
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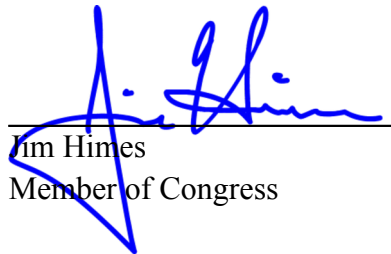
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Jared Golden  
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Mark DeSaulnier  
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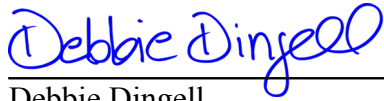
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Donald Norcross  
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Debbie Dingell  
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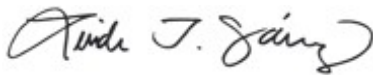
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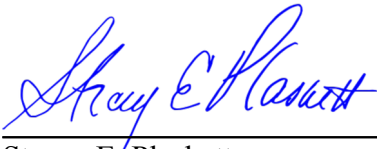
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Ted W. Lieu  
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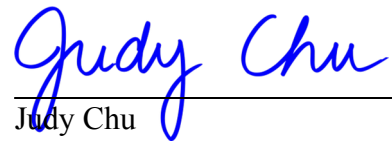
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Mike Thompson  
Member of Congress



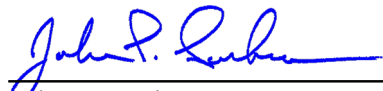
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Lloyd Smucker  
Member of Congress



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Judy Chu  
Member of Congress



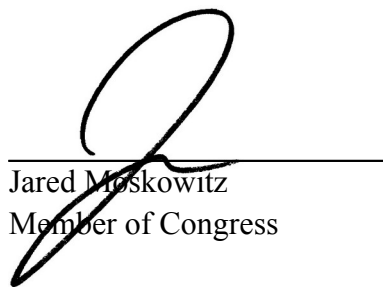
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John P. Sarbanes  
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Diana DeGette  
Member of Congress



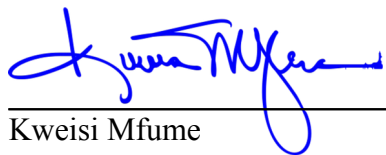
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Jared Moskowitz  
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Steve Cohen  
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Kweisi Mfume  
Member of Congress



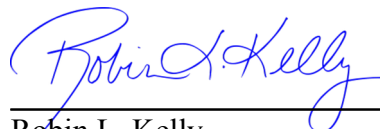
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Chrissy Houlahan  
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Bradley Scott Schneider  
Member of Congress



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Robin L. Kelly  
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Lisa Blunt Rochester  
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David J. Trone  
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Yadira Caraveo M.D.  
Member of Congress



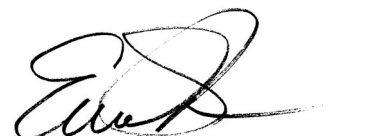
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Dan Goldman  
Member of Congress



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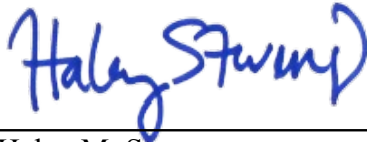
Susie Lee  
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Emilia Strong Sykes  
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Joe Wilson  
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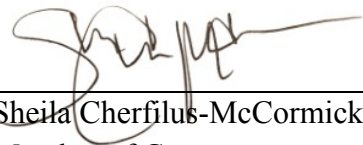
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Gus M. Bilirakis  
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Sheila Cherfilus-McCormick  
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Ritchie Torres  
Member of Congress



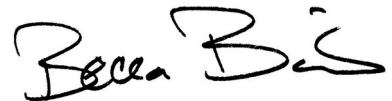
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Becca Balint  
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Jimmy Panetta  
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Melanie Stansbury  
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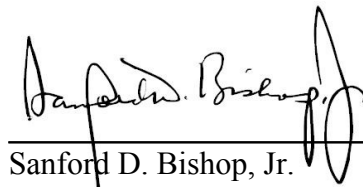
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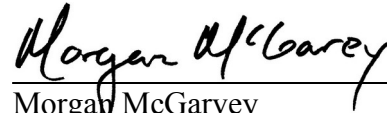
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Shri Thanedar  
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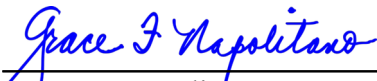
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Dean Phillips  
Member of Congress



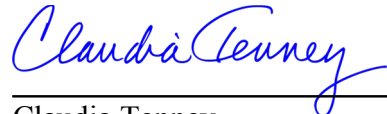
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Morgan McGarvey  
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Grace F. Napolitano  
Member of Congress



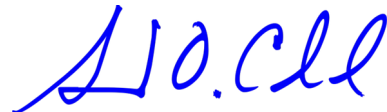
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Claudia Tenney  
Member of Congress



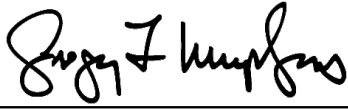
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Salud Carbajal  
Member of Congress



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Gregory F. Murphy, M.D.  
Member of Congress



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Member of Congress



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Brad Finstad  
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Greg Stanton  
Member of Congress



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Rick Larsen  
Member of Congress



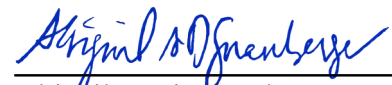
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Bruce Westerman  
Member of Congress



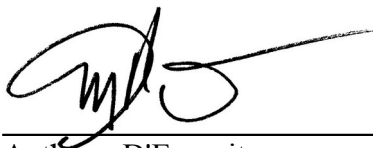
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Eric A. "Rick" Crawford  
Member of Congress



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Abigail Davis Spanberger  
Member of Congress



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Anthony D'Esposito  
Member of Congress



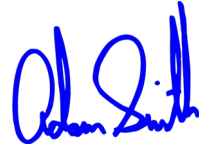
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Member of Congress



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Seth Moulton  
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Adam Smith  
Member of Congress



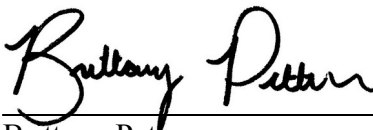
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Jake LaTurner  
Member of Congress



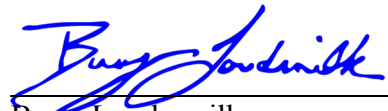
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Alex X. Mooney  
Member of Congress



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Brittany Pettersen  
Member of Congress



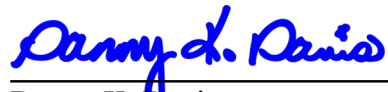
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Barry Loudermilk  
Member of Congress



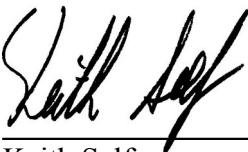
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Joe Neguse  
Member of Congress



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Danny K. Davis  
Member of Congress



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Keith Self  
Member of Congress



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Michael Waltz  
Member of Congress



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Greg Landsman  
Member of Congress



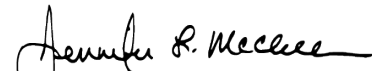
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Michelle Steel  
Member of Congress



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Rick W. Allen  
Member of Congress



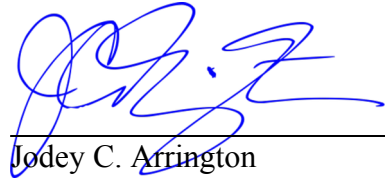
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Jennifer L. McClellan  
Member of Congress



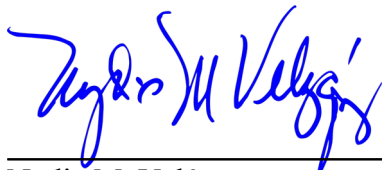
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Jim Costa  
Member of Congress



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Jodey C. Arrington  
Member of Congress



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Nydia M. Velázquez  
Member of Congress

*André Carson*

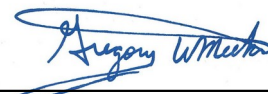
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André Carson  
Member of Congress



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Donald M. Payne, Jr.  
Member of Congress



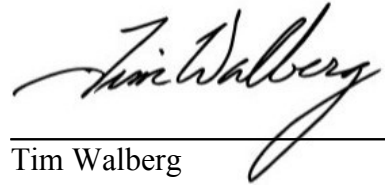
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Gregory W. Meeks  
Member of Congress



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Jenniffer González-Colón  
Member of Congress



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Tim Walberg  
Member of Congress



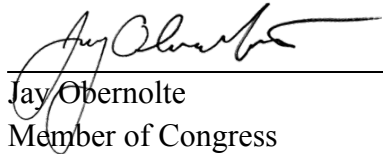
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Bill Johnson  
Member of Congress



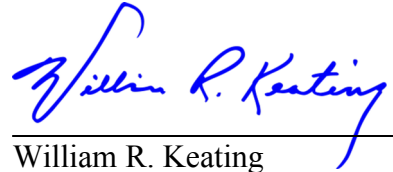
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Stephanie Bice  
Member of Congress



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Jay Obernolte  
Member of Congress



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William R. Keating  
Member of Congress



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Garret Graves  
Member of Congress



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Marie Gluesenkamp Perez  
Member of Congress



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Michael T. McCaul  
Member of Congress



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Austin Scott  
Member of Congress



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Greg Pence  
Member of Congress



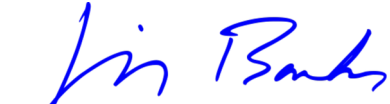
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Paul Tonko  
Member of Congress



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Randy Feenstra  
Member of Congress



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Jim Banks  
Member of Congress



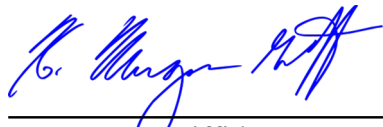
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William R. Timmons, IV  
Member of Congress



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Robert E. Latta  
Member of Congress



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H. Morgan Griffith  
Member of Congress



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Jared Huffman  
Member of Congress



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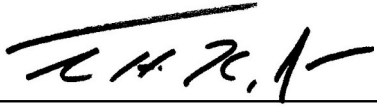
Betty McCollum  
Member of Congress



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Erin Houchin  
Member of Congress





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Thomas H. Kean, Jr.  
Member of Congress



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Juan Ciscomani  
Member of Congress



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Jamie Raskin  
Member of Congress



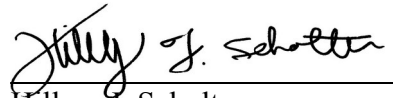
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Lori Chavez-DeRemer  
Member of Congress



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Michelle Fischbach  
Member of Congress



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Hillary J. Scholten  
Member of Congress



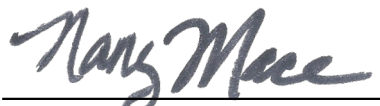
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Eric Swalwell  
Member of Congress



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Marcus J. Molinaro  
Member of Congress



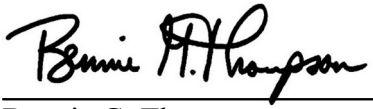
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Nancy Mace  
Member of Congress



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Debbie Lesko  
Member of Congress



---

Bennie G. Thompson  
Member of Congress



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Nicholas A. Langworthy  
Member of Congress



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Norma J. Torres  
Member of Congress