



WISCONSIN LEGISLATURE

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January 20, 2017

Congressman Jason Chaffetz
Chairman, Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Chairman Chaffetz:

Thank you for taking the time to request feedback on the important and often overlooked effects of unfunded federal mandates on state, local, and tribal governments, and the private sector. On behalf of our Assembly Republican Caucus in Wisconsin, we truly appreciate the opportunity to provide input. After reaching out to my Assembly Republican colleagues and other stakeholders, I would like to provide a small sampling of the unfunded mandates and regulations that have been shared with my office and have proven to be a burden of compliance. While there are many unfunded federal mandates that burden the state of Wisconsin and its residents, the brief focus of this letter is on health and environmental regulations.

Health

- *Wisconsin hospitals currently face a number of uncoordinated and redundant oversight programs, which include: the Comprehensive Error Rate Testing (CERT) program, Office of Inspector General (OIG), Medicaid Integrity Contractors (MIC), Medicaid Integrity Program (MIP), Payment Error Rate Measurement Program (PERM), Medicare Administrative Contractor (MAC), Zone Program Integrity Contractors (ZPIC), and the Recovery Audit Program (RAC). A more specific example is the RAC program which was created under the Tax Relief and Healthcare Act of 2006. The RAC program is paid on a contingency basis and has aggressively and inappropriately recouped millions of dollars from Wisconsin hospitals, and has created an unfunded burden on health care providers in our state.*
- *The Center for Medicare and Medicaid Services (CMS) policy and guidance on "shared space" and "mixed use space" is unclear, inflexible, and is interpreted differently within the agency. With hospitals unsure on the proper guidance, there is concern that mixed used spaces must have specific structural or building requirements that they are not currently prepared for. This would increase the costs for hospitals if they cannot afford to rebuild according to these requirements. In addition, it could reduce access to care, particularly in rural parts of our state.*
- *Another CMS requirement for hospitals is to collect and report 60 different quality measures. This requires skilled clinical staff and a contract with an approved data vendor for submission and management of the data. For a mid-sized hospital, an annual contract with a data vendor can range from \$50,000 to \$100,000 per year.*
- *Many of CMS' mandated reporting standards are not experience-based or shown to positively affect clinical outcomes, and CMS takes an "all-or-nothing" approach to compliance, subjecting*

hospitals to significant Medicare penalties for failing to meet a single measure by even a single percentage point. Specifically, under the Medicare EHR Incentive Program, hospitals that fail to meaningfully use certified EHR technology are subject to significant Medicare reimbursement penalties. Not only do many of the "meaningful use" reporting requirements entail investments and workflow disruptions that outweigh potential health care cost savings or improvements in outcomes, but CMS regulations have made program success—and successful avoidance of Medicare penalties—unnecessarily difficult.

Environmental

- *Environmental permitting, generally, has proven to be an area of hardship as many of these requirements do not come with adequate federal funding. More specifically, federal air permitting, federal wetland permitting, and federal wastewater discharge permitting have proven to be costly. Among other things, these various permitting requirements may require companies to retrofit existing equipment, install costly pollution reduction measures and other new equipment, and conduct expensive testing. These requirements certainly can and do impact growth and expansion of businesses in our state.*
- *The Clean Power Plan may require the building of new energy generation capacities, which would likely pass costs down to businesses, families, and all other ratepayers.*
- *Under the Clean Air Act, a number of Wisconsin counties were mandated by the EPA to continue vehicle inspection and maintenance programs. This was proven to be a burdensome, unnecessary and more costly requirement for many in our state.*

We again want to stress that this is by no means an exhaustive list, and simply reflects a small portion of the feedback that was shared from state legislators and Wisconsin stakeholders. We appreciate the opportunity for an ongoing dialogue on this topic. I will also be submitting supplemental documentation of the feedback my office received.

We would ask that you to continue to look further into the many unfunded federal mandates, and carry on our strong history of federalism and allow states to be true "laboratories of democracy."

We look forward to working with Congress and the new Administration on these important initiatives, and truly appreciate the opportunity to share our concerns. Going forward, we would be interested in testifying before a committee on any relevant matters relating to these issues; please let us know if we can be of any assistance in your efforts to better understand the burden of unfunded mandates.

Sincerely,



Robin J. Vos
Speaker of the Wisconsin State Assembly