

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

July 25, 2023

Hon. Chiquita Brooks-LaSure  
Administrator for the Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244

Dear Administrator Brooks-LaSure:

We write to share our concerns regarding the ways in which over-the-counter COVID-19 test kit vendors may currently be defrauding Medicare and to inquire about the efforts being undertaken to mitigate such fraud.

It has come to our attention through our constituents, many of whom are Medicare providers themselves, that over-the-counter (OTC) COVID-19 test kit vendors have taken advantage of the declared COVID-19 Public Health Emergency to bill Medicare for unsolicited and unnecessary products. As you know, prior to the COVID-19 Public Health Emergency (PHE) ending on May 11, Medicare Part B would cover the costs of up to eight OTC COVID-19 test kits per month. As the end of the PHE drew near, these vendors began indiscriminately offloading as much of their test kits as they could to Medicare providers, giving some providers expired tests. Many of these vendors have dubious websites, fake addresses, and phone numbers that do not work, giving us the impression that these “companies” were solely created to bill Medicare and turn a quick profit at the taxpayers’ expense.

These OTC COVID-19 test kits were not only unsolicited but, in many cases, declined by Medicare providers. Yet, vendors still sent these tests to providers and billed Medicare. We hope you take immediate steps to identify the vendors that have defrauded Medicare and utilize all the available tools at your disposal to reclaim funds that were disbursed for unsolicited OTC COVID-19 test kits.

We also ask for your kind attention to the following clarifying questions:

- Are you aware of this current practice of defrauding Medicare? If so, how many complaints of this type of fraud have you received and are currently investigating?
- What steps are you taking to combat this practice and to retrieve the ill-spent money by Medicare on unsolicited COVID-19 test kits? How much money has been recovered?
- Did the Centers for Medicare & Medicaid Services (CMS) audit OTC COVID-19 test kit vendors using the Do Not Pay databases established by the *Payment Integrity Information Act of 2019* (P.L. 116-117) before disbursing funds? If not, why didn’t CMS officials do so?
- CMS is currently authorized to contract with entities, called Unified Program Integrity Contractors (UPICs) to conduct program integrity functions for Medicare. What protocols exist for CMS and UPICs to validate claims of fraud and ensure they are added to the aforementioned Do Not Pay databases? How many OTC COVID-19 test kit vendors have been added to the Do Not Pay databases?

- Has your office referred any potential cases of fraud to the Federal Bureau of Investigations to be investigated? If so, how many cases have been referred?
- Will you commit to working with the undersigned Members on solutions to prevent this type of fraud?

We respectfully request answers to all these questions by August 25, 2023.

Any questions regarding this request can be directed to Emma White in Congressman Barry Moore's office at [Emma.White@mail.house.gov](mailto:Emma.White@mail.house.gov) and Tom McCullough in Congressman Cloud's office at [Tom.McCullough@mail.house.gov](mailto:Tom.McCullough@mail.house.gov).

Thank you for your immediate attention to this matter.

Sincerely,



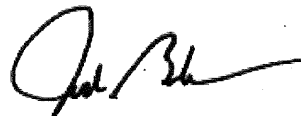
Barry Moore  
Member of Congress



Michael Cloud  
Member of Congress



Ben Cline  
Member of Congress



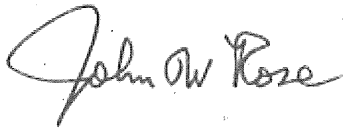
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Bruce Westerman  
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Nancy Mace  
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John Rose  
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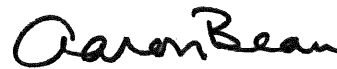
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