

United States Senate

WASHINGTON, DC 20510

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.^{1, 2, 3} 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,

¹ 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-medicicaid-programs-patient-protection-and-affordable-care-act-advancing-interoperability>.

² 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>.

³ 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>.

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 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.⁴ 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.⁵

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*.

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

5 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>.

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.⁶

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 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,



Sherrod Brown
United States Senator



John Thune
United States Senator



Kyrsten Sinema
United States Senator



Roger Marshall M.D.
United States Senator



Jeffrey A. Merkley
United States Senator



James Lankford
United States Senator

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



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United States Senator



Shelley Moore Capito
United States Senator



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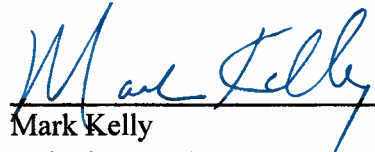
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John Fetterman
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Mazie K. Hirono
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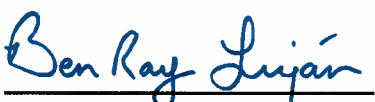
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Marco Rubio
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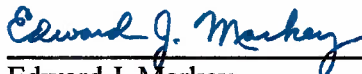
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Maggie Hassan
United States Senator

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Tom Cotton
United States Senator

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John Hoeven
United States Senator

Congress of the United States

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

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Sincerely,



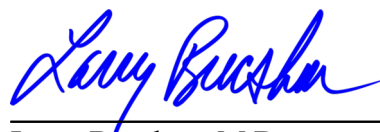
Suzan K. DelBene
Member of Congress



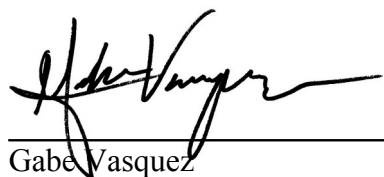
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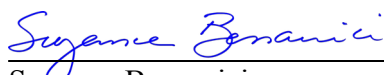
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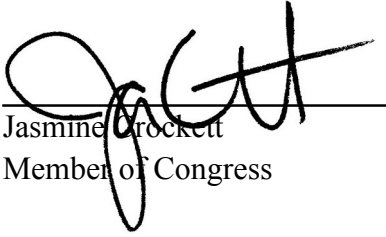
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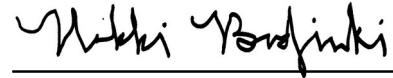
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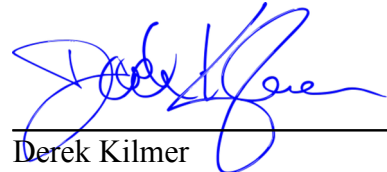
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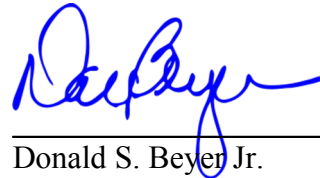
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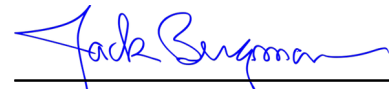
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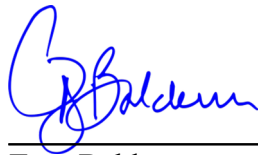
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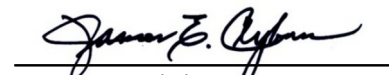
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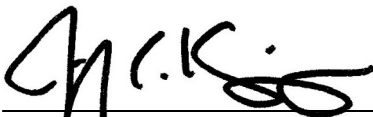
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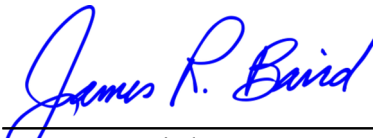
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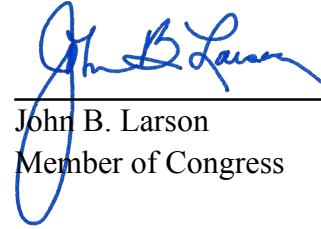
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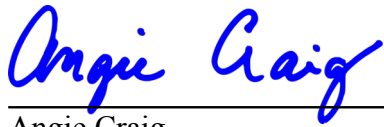
Beth Van Duyne
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John H. Rutherford
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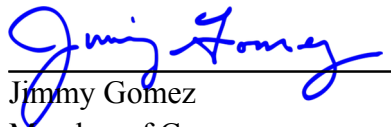
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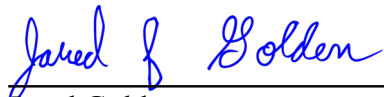
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Jake Auchincloss
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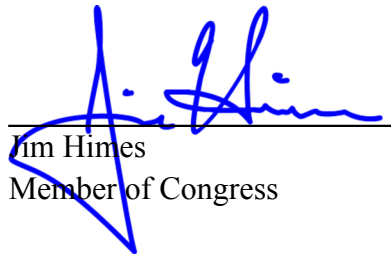
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Jared Golden
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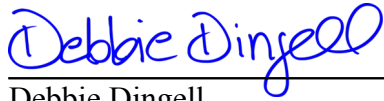
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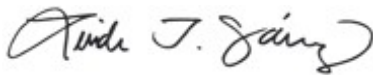
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Josh Gottheimer
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David Scott
Member of Congress



Guy Reschenthaler
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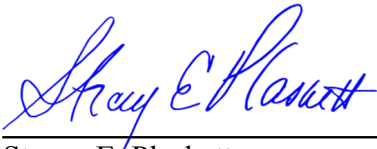
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James P. McGovern
Member of Congress



Barbara Lee
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Stacey E. Plaskett
Member of Congress



Jefferson Van Drew
Member of Congress



Jason Crow
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Chris Deluzio
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Mike Levin
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Sean Casten
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Colin Z. Allred
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Tony Cárdenas
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Andy Kim
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Matt Cartwright
Member of Congress



Ted W. Lieu
Member of Congress



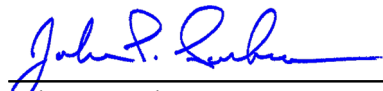
Mike Thompson
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Lloyd Smucker
Member of Congress



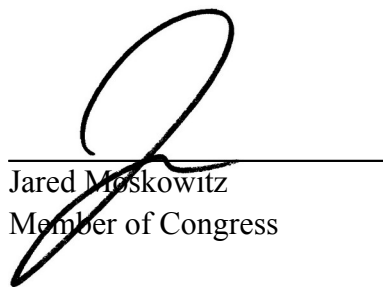
Judy Chu
Member of Congress



John P. Sarbanes
Member of Congress



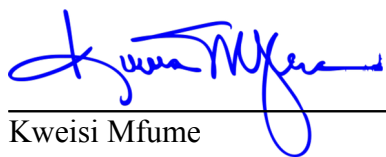
Diana DeGette
Member of Congress



Jared Moskowitz
Member of Congress



Steve Cohen
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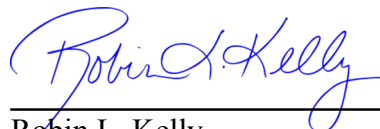
Kweisi Mfume
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Chrissy Houlahan
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Bradley Scott Schneider
Member of Congress



Robin L. Kelly
Member of Congress



Lisa Blunt Rochester
Member of Congress



David J. Trone
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Yadira Caraveo M.D.
Member of Congress



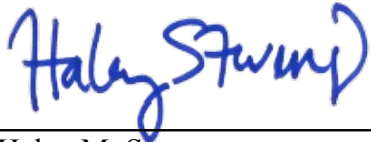
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Member of Congress



Emilia Strong Sykes
Member of Congress



Haley M. Stevens
Member of Congress



Mikie Sherrill
Member of Congress



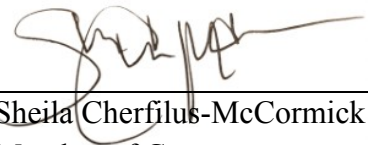
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Gus M. Bilirakis
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Member of Congress



Sheila Cherfilus-McCormick
Member of Congress



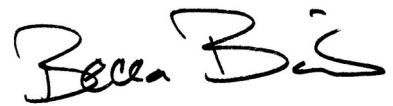
Ritchie Torres
Member of Congress



Steven Horsford
Member of Congress



Lucy McBath
Member of Congress



Becca Balint
Member of Congress



Cori Bush
Member of Congress



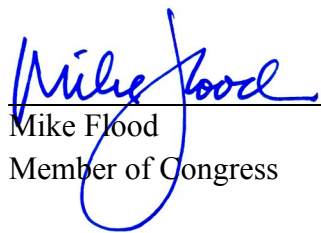
Jimmy Panetta
Member of Congress



Melanie Stansbury
Member of Congress



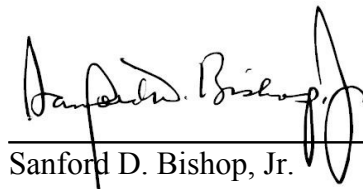
Debbie Wasserman Schultz
Member of Congress



Mike Flood
Member of Congress



Shontel M. Brown
Member of Congress



Sanford D. Bishop, Jr.
Member of Congress



Darin LaHood
Member of Congress



Michael C. Burgess, M.D.
Member of Congress



Kat Cammack
Member of Congress



Brian Babin, D.D.S.
Member of Congress



David P. Joyce
Member of Congress



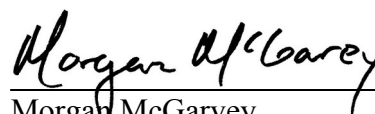
Brad R. Wenstrup, D.P.M.
Member of Congress




Shri Thanedar
Member of Congress




Dean Phillips
Member of Congress



Morgan McGarvey
Member of Congress



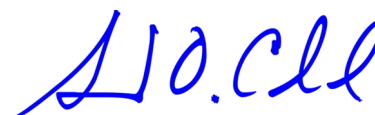
Grace F. Napolitano
Member of Congress



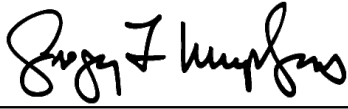
Claudia Tenney
Member of Congress



Maria Elvira Salazar
Member of Congress



Salud Carbajal
Member of Congress



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



Richard Hudson
Member of Congress



Brad Finstad
Member of Congress



Greg Stanton
Member of Congress



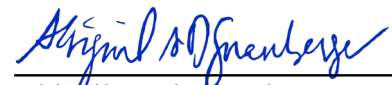
Rick Larsen
Member of Congress



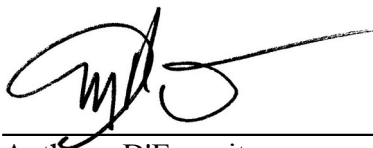
Bruce Westerman
Member of Congress



Eric A. "Rick" Crawford
Member of Congress



Abigail Davis Spanberger
Member of Congress



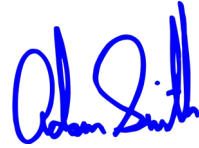
Anthony D'Esposito
Member of Congress



Robert J. Menendez
Member of Congress



Seth Moulton
Member of Congress



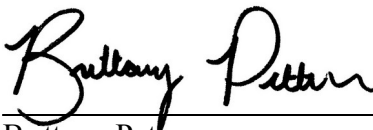
Adam Smith
Member of Congress



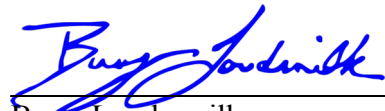
Jake LaTurner
Member of Congress



Alex X. Mooney
Member of Congress



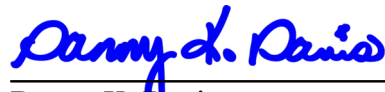
Brittany Pettersen
Member of Congress



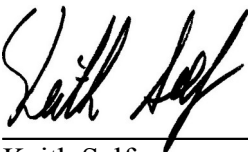
Barry Loudermilk
Member of Congress



Joe Neguse
Member of Congress



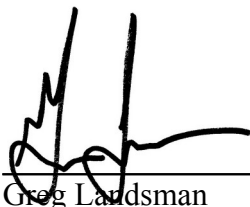
Danny K. Davis
Member of Congress



Keith Self
Member of Congress



Michael Waltz
Member of Congress



Greg Landsman
Member of Congress



Michelle Steel
Member of Congress



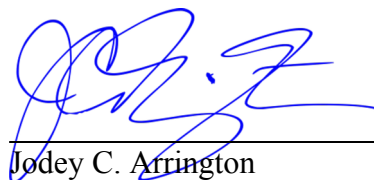
Rick W. Allen
Member of Congress



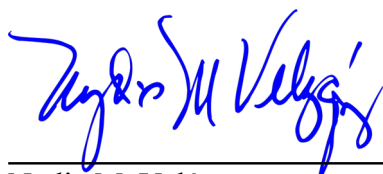
Jennifer L. McClellan
Member of Congress



Jim Costa
Member of Congress



Jodey C. Arrington
Member of Congress



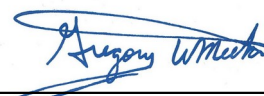
Nydia M. Velázquez
Member of Congress

André Carson

André Carson
Member of Congress



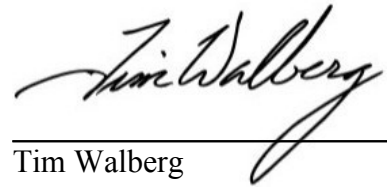
Donald M. Payne, Jr.
Member of Congress



Gregory W. Meeks
Member of Congress



Jennifer González-Colón
Member of Congress



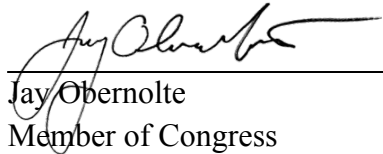
Tim Walberg
Member of Congress



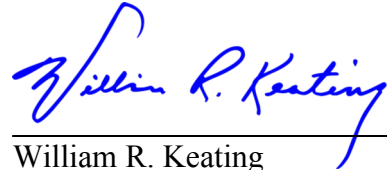
Bill Johnson
Member of Congress



Stephanie Bice
Member of Congress



Jay Obernolte
Member of Congress



William R. Keating
Member of Congress



Garret Graves
Member of Congress



Marie Gluesenkamp Perez
Member of Congress



Michael T. McCaul
Member of Congress



Austin Scott
Member of Congress



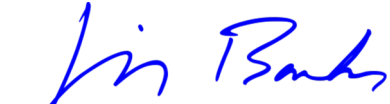
Greg Pence
Member of Congress



Paul Tonko
Member of Congress



Randy Feenstra
Member of Congress



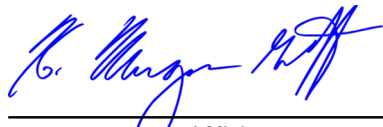
Jim Banks
Member of Congress



William R. Timmons, IV
Member of Congress



Robert E. Latta
Member of Congress



H. Morgan Griffith
Member of Congress



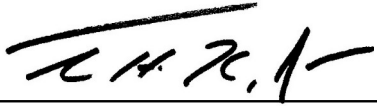
Jared Huffman
Member of Congress



Betty McCollum
Member of Congress



Erin Houchin
Member of Congress



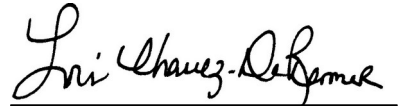
Thomas H. Kean, Jr.
Member of Congress



Juan Ciscomani
Member of Congress



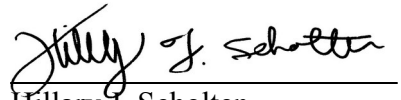
Jamie Raskin
Member of Congress



Lori Chavez-DeRemer
Member of Congress



Michelle Fischbach
Member of Congress



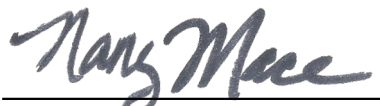
Hillary J. Scholten
Member of Congress



Eric Swalwell
Member of Congress



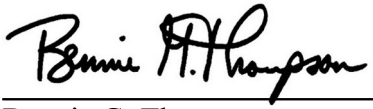
Marcus J. Molinaro
Member of Congress



Nancy Mace
Member of Congress



Debbie Lesko
Member of Congress



Bennie G. Thompson
Member of Congress



Nicholas A. Langworthy
Member of Congress



Norma J. Torres
Member of Congress