

# United States Senate

WASHINGTON, DC 20510

October 11, 2017

Chairman Orrin Hatch  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Ranking Member Ron Wyden  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Hatch and Ranking Member Wyden:

In the wake of Hurricane Irma, 14 residents of a single nursing facility in Hollywood, Florida, passed away. While this terrible tragedy is currently under investigation, it has been widely reported that these individuals were left in sweltering conditions after the nursing facility's air conditioning system lost power. This has shocked the state of Florida, and rightfully raised questions about the oversight of nursing homes, particularly the enforcement of existing emergency preparedness requirements.

Previous inspections of this particular facility, the Rehabilitation Center at Hollywood Hills, were conducted by the Florida Agency for Health Care Administration (AHCA) on behalf of the state and Centers for Medicare and Medicaid Services (CMS). During a February 2016 inspection, AHCA found that the medication error rate during the observation period was nearly 26 percent,<sup>1</sup> far exceeding the federal regulation requiring facilities to ensure that "medication error rates are not five percent or greater."<sup>2</sup> Two years prior, AHCA found that the facility was not providing enough water to all patients in order to maintain proper hydration and health, contravening federal requirements.<sup>3</sup> These violations are especially alarming since the facility's personnel knew that they were being monitored by AHCA inspectors.

The Hollywood nursing home has also been cited for failing to properly maintain the automatic fire sprinkler system.<sup>4</sup> Not only is this a violation of federal regulations, but it is also indicative of the lack of seriousness with which the nursing home considered emergency response plans, as well as CMS' oversight of those plans. Moreover, federal regulations mandate that facilities' emergency preparedness procedures address subsistence needs for residents, including alternate sources of energy to maintain temperatures and protect residents' health and safety.<sup>5</sup> Unfortunately, despite this requirement and the facilities' close proximity to an

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<sup>1</sup> February 2016 AHCA inspection, [http://apps.ahca.myflorida.com/dm\\_web/DMWeb\\_Docs/6856421.pdf](http://apps.ahca.myflorida.com/dm_web/DMWeb_Docs/6856421.pdf)

<sup>2</sup> 42 CFR § 483.45(f)(1).

<sup>3</sup> 42 CFR § 483.25(g)(2).

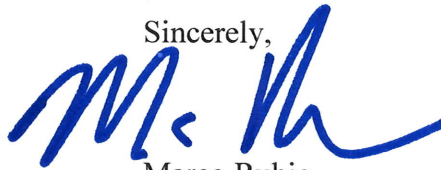
<sup>4</sup> December 2014 AHCA inspection, [http://apps.ahca.myflorida.com/dm\\_web/DMWeb\\_Docs/5834231.pdf](http://apps.ahca.myflorida.com/dm_web/DMWeb_Docs/5834231.pdf)

<sup>5</sup> 42 CFR § 483.73(b)(1)(ii)(A).

operational hospital, residents were found to have temperatures exceeding 109 degrees,<sup>6</sup> far above the level that puts seniors at risk for heat stroke.<sup>7</sup>

As the Chairman and Ranking Member of the committee with jurisdiction over Medicare and Medicaid, I implore you to investigate the failures that occurred at this nursing home and others throughout the country, particularly in Florida and Puerto Rico, to prevent similar tragedies from happening in the future. Additionally, I respectfully request that you consider examining other ways in which Medicare and Medicaid beneficiaries were impacted by these storms and how better planning and coordination between the federal, state, and local government could mitigate harm caused by hurricanes.

Sincerely,



Marco Rubio  
U.S. Senator

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<sup>6</sup> <https://www.nbcnews.com/storyline/hurricane-irma/florida-nursing-home-death-toll-rises-twelve-after-irma-knocked-n805846>

<sup>7</sup> <https://www.cdc.gov/disasters/extremeheat/warning.html>