Congress of the United States
Washington, DC 20515

November 17, 2009

Mr. Gene Dodaro
Acting Comptroller General
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro:

We anticipate that we will soon enact comprehensive health care legislation that will ensure all Americans have access to affordable, quality health care and reduce the growth rate of health care spending. The pharmaceutical industry has been monitoring this legislation closely, and recent studies have indicated that the industry may be artificially raising prices for certain pharmaceutical products in expectation of new reforms that could otherwise reduce prescription drug prices or price growth by encouraging patients and the government to be more efficient purchasers. Any price gouging is unacceptable, but anticipatory price gouging is especially offensive. We request that the GAO prepare on an expedited basis a report that analyzes recent trends in prescription drug pricing. In addition, we request that you prepare a proposal to ensure ongoing monitoring of pharmaceutical manufacturer pricing practices, and periodically report to the Congress on your findings.

According to data published by the Office of the Actuary of the Centers for Medicare & Medicaid Services, public and private purchasers of health care spent more than $227 billion on prescription drugs in 2007. Public programs, including Medicare, Medicaid and the Veterans' Administration, spent over one-third of total expenditures, while private sources spent nearly two-thirds. Of the more than $146 billion in private spending on prescription drugs, 32 percent represents consumer out-of-pocket spending including copayments or coinsurance for prescription drugs. Increased prices for existing brand-name drugs have direct implications for government spending, patients' out-of-pocket spending and private payers, including employers.

GAO has previously found that annual price increases for brand-name drugs were higher in years just prior to passage of major legislation extending coverage for prescription drugs.[1] Specifically, in tracking usual and customary prices for brand-name drugs from 2000-2007, the GAO found that in the year before passage of the 2003 Medicare Modernization Act creating the Medicare Part D prescription drug benefit, the price increase for a particular index of brand-name drugs was almost seven percent, while the previous two annual price increases were closer to four percent.

On November 16, 2009, the *New York Times* published an article describing multiple analyses of drug prices in the past year, showing that pharmaceutical manufacturers raised prices more

[1] Government Accountability Office, *Prescription Drugs: Trends in Usual and Customary Prices for Drugs Frequently Used by Medicare and Non-Medicare Health Insurance Enrollees* (September 7, 2007). Accessible at: http://www.gao.gov/new.items/d071201r.pdf.

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rapidly than in other recent years.[2] The implication of these findings is that in advance of the passage of health reform legislation that would result in tens of millions of newly insured customers and new mechanisms to control rising expenditures on prescription drugs, manufacturers are increasing brand-name drug prices.

In light of these rapid price increases we request that GAO conduct an analysis that provides us with information on trends in drug pricing, including:

1. An analysis of recent annual price trends for commonly purchased brand-name and generic pharmaceuticals.
2. A comparison of these drug pricing trends to commonly-used benchmarks of price trends for other goods and services, such as the Consumer Price Index.
3. An analysis of the particular pharmaceutical products that account for significant increases or decreases in the price trends of brand-name or generic drugs.
4. Examine whether particular pharmaceutical manufacturers demonstrate anomalous drug pricing trends relative to overall pharmaceutical price trends.

This analysis will provide us with a benchmark of drug manufacturer pricing activity just prior to passage of our health reform legislation. We expect to request a follow-up analysis from the GAO reviewing drug price trends once the majority of health reforms are implemented. If you have any questions about this request, please contact Ruth E. Brown at (202) 225-3943 or Brian Cohen at (202) 225-5056.

Sincerely,

Charles B. Rangel
Chairman
Committee on Ways & Means

Henry A. Waxman
Chairman
Committee on Energy & Commerce

Pete Stark
Chairman
Subcommittee on Health
Committee on Ways & Means

John Lewis
Chairman
Subcommittee on Oversight
Committee on Ways & Means

[2] Wilson, Duff. "Drug Makers Raise Prices in Face of Health Care Reform," New York Times 16 Nov. 2009: A1.