

Congress of the United States
Washington, DC 20515

June 3, 2010

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sebelius:

As you know, the statutory deadline for Medicare Advantage (MA) plans to submit their bids that outline benefits and premiums for 2011 is June 7th. We are writing to urge you to ensure that the Centers for Medicare and Medicaid Services (CMS) undertake a robust and thorough review of their bid submissions to justify changes in the premiums or benefits that plans may propose for next year. To promote stability in the program, the health reform legislation protected 2011 plan payment rates and took care to phase in future payment changes to minimize disruption. Any effort by MA plans to increase beneficiary premiums or reduce benefits next year should be carefully evaluated in light of these payment protections.

Substantial errors made by WellPoint in projecting medical cost trends in California for 2011—uncovered and corrected only after a rigorous assessment of the company's rate filing documents—are an example of the kind of review that would protect Medicare beneficiaries and the program from unjustified premium increases or benefit changes. The Office of the Actuary at CMS already collects detailed actuarial information in the bid submissions and has statutory authority to request additional documents as needed during the bid reviews.

In addition, according to a Government Accountability Office (GAO) report requested by the House Committees on Ways and Means and Energy and Commerce, lower beneficiary premiums for certain MA plans in 2008 attracted healthier enrollees, but if those enrollees became ill they faced considerable and unexpected out-of-pocket expenditures that often exceeded Medicare fee-for-service limits by significant amounts.¹

The Affordable Care Act provides additional authority to protect beneficiaries from MA plans that offer discriminatory benefit packages. In particular, it limits the ability of these plans to charge higher cost-sharing than fee-for-service Medicare in three specific categories where abuses are well-documented and provides the Secretary with authority to extend this protection to additional services as needed. The Affordable Care Act also removes unwarranted overpayments that have caused Medicare Advantage to cost more than Medicare fee-for-service, shortened the solvency of the Medicare trust fund, and led to higher premiums for the more than three-quarters of beneficiaries in traditional Medicare. In phasing out these overpayments, CMS

¹ Government Accountability Office, "Medicare Advantage: Relationship between Benefit Package Designs and Plans' Average Beneficiary Health Status", April 2010.

must ensure that plans work to trim administrative costs and other overhead, rather than merely shifting additional costs onto beneficiaries to preserve their bottom line.

The Affordable Care Act increases the authority vested in the Secretary to hold MA plans accountable for their bid submissions. Using this authority, we expect the Secretary and officials at CMS to ensure that the bid proposals are accurate, merit approval and are not discriminatory in nature relative to plan payments.

We look forward to continuing to work together to ensure appropriate implementation of the Affordable Care Act. Thank you for your attention to this important matter.

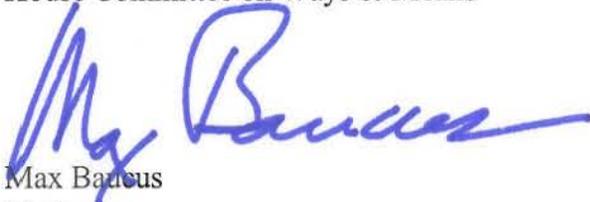
Sincerely,



Sander M. Levin
Chairman
House Committee on Ways & Means



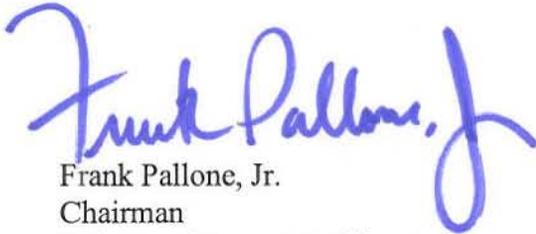
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Chairman
House Committee on Energy & Commerce



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Pete Stark
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