

Congress of the United States
Washington, DC 20510

May 10, 2005

The Honorable Michael O. Leavitt
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Leavitt:

We are writing to express our views on the importance of the Medicaid program, the recently passed budget resolution that includes reconciliation instructions for \$10 billion in cuts, and the news reports of a Presidential Commission on Medicaid whose membership you will appoint to make recommendations on achieving the \$10 billion in savings and making structural reforms to the program.

The final Budget Resolution required cuts to the Medicaid program in spite of the fact that a bipartisan majority of both the House and Senate did not support these cuts. The National Governors Association also opposed such cuts, along with nearly 1,000 state organizations and more than 800 national organizations. We are concerned that a small minority who wish to use the budget process to make more fundamental changes to this important health insurance program are driving these cuts.

We believe that Medicaid is not the problem, but rather has been the solution for millions who have lost job-based health coverage over the past few years. Medicaid has done a better job at holding down costs than private insurance by almost half. All the while Medicaid has been absorbing the costs of care for services not covered by Medicare and absorbing the influx of families and children who would otherwise be uninsured.

Cuts to Medicaid will only further increase the number of uninsured, lead to job losses in the healthcare sector, and result in payment reductions to doctors and other healthcare providers who care for Medicaid patients. Such cuts will also undermine community health centers that depend so much on Medicaid to survive.

It will be difficult, if not impossible, to achieve \$10 billion in Medicaid savings without undue harm to vulnerable beneficiaries. Thus, we will urge our Committees to look elsewhere in

order to meet the budget target. Both the Senate Committee on Finance and the House Committee on Energy and Commerce have jurisdiction over other areas that could generate savings. There is no reason to believe that the full amount must come from Medicaid.

Efforts by our Senate and House colleagues to strike the Medicaid cuts in the budget resolution also expressed support for an independent, credible, non-partisan body to examine potential changes to the Medicaid program in lieu of arbitrary, budget-driven cuts. Unfortunately, the Conference Report included cuts but no Commission, although we understand that the Administration has made a commitment to Senator Smith to ensure that a credible, independent Commission would be created. While we continue to oppose the cuts, and believe that a non-partisan commission may be helpful in identifying ways to preserve the program for the long term, we strongly believe that Committees of jurisdiction should make the decisions concerning reductions in Medicaid program spending. Therefore, neither this Commission, nor any other outside party, should be given the task of finding these savings.

Even so, news reports suggest that there may still be a Presidential Commission, appointed by you to identify ways to achieve \$10 billion in Medicaid cuts and structural reforms to the program. If there must be a commission, we urge that it meet the following key criteria:

- (1) It must be truly bipartisan and independent from influence by those in the Administration with an agenda unfriendly to this safety net program. For the Commission to be truly bipartisan it must include a balanced number of appointees, not hand-selected by the Secretary, but by the bipartisan leadership of the House and Senate. To ensure independence, the Commission should be administered by a neutral, independent research organization, for example, the Institute of Medicine. This will be critical to ensuring the Commission's public credibility. Moreover, given the weight of the task and the time commitment involved in serving, we believe that membership should not include elected officials currently in office.
- (2) Its final work product must have broad consensus in order to make recommendations that all members agree with. The Commission should not produce a partisan document that is supported only by a simple majority. As with the Medicare Commission, this entity will be looking at weighty issues that may have an effect on our entire health care system, so it is more important to "get it right" rather than do it quickly.
- (3) The Commission's recommendations must be policy-driven, not driven by an arbitrary budget number. In fact, we believe that any Commission could not, and should not, be assigned the job of finding \$10 billion in Medicaid program savings. That is the job of Congress. Instead, the Commission should be charged

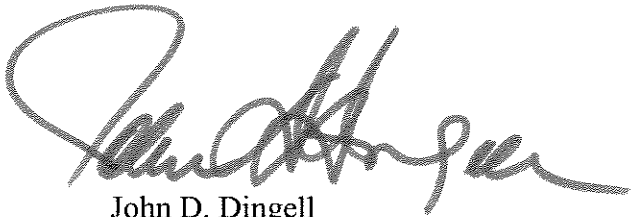
with making recommendations that will ensure Medicaid's long-term viability for generations to come, including both investments and savings that may be needed to achieve that goal.

- (4) We believe that such a Commission must comply with the Federal Advisory Committee Act (FACA), which sets requirements for the establishment of a committee, development of a charter, public notice, open meetings, public testimony, public inspection of working papers, etc. FACA specifically states that "any committee, board, commission...panel, task force, or other similar group, or any subcommittee or other sub-group thereof...which is established or utilized by one or more agencies...in the interest of obtaining advice and recommendations for...the Federal Government" is an advisory committee subject to the requirements of FACA. The FACA law also requires that committee membership must be "fairly balanced in terms of points of view presented and the functions to be performed." Given the potential impact of this Commission's work, we strongly believe that it must conduct its business in the light of day and provide ample opportunity for public input.
- (5) The Commission should provide an impact analysis for all of its recommendations including Federal and/or State savings or costs as well as costs or savings for Medicaid beneficiaries or providers.

In the end, regardless of any outside recommendations that might be proposed to change Medicaid, the buck must still stop with Congress. We urge that any such Commission acknowledge this and make efforts to consult with Congress as it deliberates.

We appreciate the opportunity to share our thoughts on the necessary threshold any potential Commission must meet in order to credibly recommend changes to the Medicaid program. As we consider proposals related to Medicaid in the coming months, we are hopeful to continue a bipartisan and open dialogue.

Sincerely,



John D. Dingell
Ranking Member
House Committee on Energy and Commerce



Max Baucus
Ranking Member
Senate Committee on Finance