



A Partnership of The Arc & United Cerebral Palsy

Via Facsimile and E-Mail

July 26, 2007

The Honorable John Dingell
Chairman
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Charles Rangel
Chairman
Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Dingell and Chairman Rangel:

On behalf of children and adults with intellectual disabilities (formerly referred to as mental retardation), cerebral palsy and millions of persons of all ages with other disabilities, we want to express our strong support for H.R. 3162, the Children's Health and Medicare Protection Act of 2007, reauthorizing the State Children's Health Insurance Program (SCHIP) and making critical improvements to the Medicaid and Medicare programs, particularly as they affect low-income beneficiaries with disabilities.

At the outset, we want to underscore our strong support for increasing the federal excise tax on tobacco. In our view, such a reduction reflects sound public health policy. In addition, we strongly support reducing overpayments to Medicare Advantage plans in order to pay for this legislation. We believe that achieving financial neutrality between payment rates for the Medicare fee-for-service program and the Medicare Advantage program — ensuring that plans are no longer paid 12 percent more than the cost of covering the same beneficiaries in fee-for-service — is an important policy objective. It allows fair competition between private plans and fee-for-service, reduces beneficiary premiums, and strengthens the financial solvency of the Medicare program. Both "pay-fors" are in the best interest of children, Medicare beneficiaries (whether or not they have disabilities) and all Americans.

The reauthorization of SCHIP, as envisioned in this legislation, represents a unique opportunity to take a major step toward providing health care coverage for uninsured children. The level of funding in the bill would allow states to maintain the existing

programs, reach out to a significant number of children who are eligible but not enrolled and provide states with a stable source of funding to allow them to move forward with their efforts. The CBO estimates that this legislation will provide coverage to an additional five million children (including children with disabilities) who would otherwise be uninsured, and the measure would make further improvements in the existing program, such as assuring coverage of dental care and eliminating an existing discriminatory limit on mental health benefits in many SCHIP benchmark plans.

In addition, several of the CHAMP Act's provisions are critical for individuals with developmental disabilities. We are especially pleased that the legislation would:

- Eliminate Part D cost-sharing for full-benefit dual eligibles in community settings who, but for the provisioning of home and community-based care would require nursing facility care. There are approximately 500,000 dual eligibles with disabilities across the country, most of whom are amongst our most vulnerable citizens. Many of the individuals we represent receive home and community based services under Medicaid Section 1915 and Section 1115 waivers.
- Allow Medicare Part D beneficiaries, beginning in 2009, to change plans in the middle of the year if there is a "material" formulary change for a drug they have been prescribed. Many Medicare beneficiaries with disabilities also have complex chronic health conditions requiring several medications. This provision will allow them to receive the medications they need.
- Codify into law special protections for six protected drug classifications. Many people with disabilities (such as those with epilepsy, mental illness and individuals with developmental disabilities) rely on anti-convulsants, antidepressants and other drugs covered in the six protected classes. Codifying this classification will ensure certainty.
- Authorizes the continuation of adult day health services approved under a Medicaid plan. This provision is needed to ensure that persons with intellectual and developmental disabilities in selected states can continue receiving Medicaid adult day health services as envisioned by the Congress. While the Congress previously imposed a moratorium on states adding adult day health services

coverage under their Medicaid rehab option programs, it specifically permitted states that had been operating such programs to do so. This provision is needed to stop the Centers for Medicare and Medicaid (CMS) from interfering with state efforts to continue operating these programs.

- Provide a state option to protect community spouses of individuals with disabilities. This provision restores longstanding federal policy that permits states to extend spousal impoverishment protections to community spouses of medically needy individuals receiving community-based long-term services. Despite a professed goal of promoting community services, federal officials have recently asserted that spousal impoverishment protections cannot be applied to spouses of medically needy individuals who qualify for Medicaid on the basis of having very large medical expenses in relation to their incomes.
- Establishes a one-year moratorium from the date of enactment that prohibits the Secretary from taking any action to restrict coverage or payment for rehabilitation services, or school-based administration, transportation, or medical services if such restrictions are more restrictive in any aspect than those applied to such coverage or payment as of July 1, 2007. Securing such a moratorium has been a high priority of the disability and mental health communities.

The provisions noted above highlight some of our most important priorities. However, once again, we underscore our overall strong support for the CHAMP Act. On behalf of children and adults with developmental and other disabilities, we applaud your leadership in introducing this critical legislation. We look forward to working with you to secure its enactment.

Sincerely,



Paul Marchand
Staff Director
The Arc and United Cerebral Palsy
Disability Policy Collaboration