

HENRY A. WAXMAN, CALIFORNIA  
EDWARD J. MARKEY, MASSACHUSETTS  
RICK BOUCHER, VIRGINIA  
EDOLPHUS TOWNS, NEW YORK  
FRANK PALLONE, Jr., NEW JERSEY  
BART GORDON, TENNESSEE  
BOBBY L. RUSH, ILLINOIS  
ANNA G. ESHOO, CALIFORNIA  
BART STUPAK, MICHIGAN  
ELIOT L. ENGEL, NEW YORK  
ALBERT R. WYNN, MARYLAND  
GENE GREEN, TEXAS  
DIANA DEGETTE, COLORADO  
VICE CHAIRMAN  
LOIS CAPPS, CALIFORNIA  
MIKE DOYLE, PENNSYLVANIA  
JANE HARMAN, CALIFORNIA  
TOM ALLEN, MAINE  
JAN SCHAKOWSKY, ILLINOIS  
HILDA L. SOLIS, CALIFORNIA  
CHARLES A. GONZALEZ, TEXAS  
JAY INSLEE, WASHINGTON  
TAMMY BALDWIN, WISCONSIN  
MIKE ROSS, ARKANSAS  
DARLENE HOOLEY, OREGON  
ANTHONY D. WEINER, NEW YORK  
JIM MATHESON, UTAH  
G.K. BUTTERFIELD, NORTH CAROLINA  
CHARLIE MELANCON, LOUISIANA  
JOHN BARROW, GEORGIA  
BARON P. HILL, INDIANA

ONE HUNDRED TENTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

JOHN D. DINGELL, MICHIGAN  
CHAIRMAN

October 23, 2007

JOE BARTON, TEXAS  
RANKING MEMBER  
RALPH M. HALL, TEXAS  
J. DENNIS HASTERT, ILLINOIS  
FRED UPTON, MICHIGAN  
CLIFF STEARNS, FLORIDA  
NATHAN DEAL, GEORGIA  
ED WHITFIELD, KENTUCKY  
BARBARA CUBIN, WYOMING  
JOHN SHIMKUS, ILLINOIS  
HEATHER WILSON, NEW MEXICO  
JOHN B. SHADEGG, ARIZONA  
CHARLES W. "CHIP" PICKERING, MISSISSIPPI  
VITO FOSSELLA, NEW YORK  
STEVE BUYER, INDIANA  
GEORGE RADANOVICH, CALIFORNIA  
JOSEPH R. PITTS, PENNSYLVANIA  
MARY BONO, CALIFORNIA  
GREG WALDEN, OREGON  
LEE TERRY, NEBRASKA  
MIKE FERGUSON, NEW JERSEY  
MIKE ROGERS, MICHIGAN  
SUE MYRICK, NORTH CAROLINA  
JOHN SULLIVAN, OKLAHOMA  
TIM MURPHY, PENNSYLVANIA  
MICHAEL C. BURGESS, TEXAS  
MARSHA BLACKBURN, TENNESSEE

DENNIS B. FITZGIBBONS, CHIEF OF STAFF  
GREGG A. ROTHSCHILD, CHIEF COUNSEL

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

Dear Secretary Leavitt:

I was dismayed to learn of the President's veto of H.R. 976, the Children's Health Insurance Program (CHIP) Reauthorization Act of 2007. This bill had the bipartisan support of 68 Senators and 275 Members of the House of Representatives.

I was further disappointed by the mistruths that were propagated by the Administration. I believe the bill sent to the President met all of the criteria he required. As no sponsor of this legislation in the House or the Senate has ever received the Department's analysis of the legislation, I am writing you to request firm clarification of the specific sections in the legislation that you find problematic, and what you specifically would recommend to modify the legislation in order to satisfy the President's concerns.

Based upon the concerns outlined in the President's veto message of October 3, 2007, I specifically request your response to the following questions:

1. The President's veto message stated, "*The original purpose of the State Children's Health Insurance Program (SCHIP) was to help children whose families cannot afford private health insurance, but do not qualify for Medicaid, to get the coverage they need.*"

As you know, H.R. 976 does not change the requirement in current law that children must be *uninsured* to receive coverage through CHIP. And, as you further know, according to the Congressional Budget Office, the vast majority of children covered through this legislation are within *current* eligibility limits.

Please identify the specific pages and line numbers where you believe the legislation departs from this principle. Please provide the modifications to the identified language that would address your concern.

2. The President's veto message also states, "*My Administration strongly supports reauthorization of SCHIP. That is why I proposed last February a 20 percent increase in funding for the program over five years.*"

As you know, according to the Congressional Budget Office, a 20 percent increase would not even provide States with enough funding to continue their current programs, and would leave 1.3 million children who are currently covered today under CHIP without coverage by 2012.

Please describe how you propose that States that would receive sufficient Federal funding under the President's proposal to continue SCHIP coverage and address the needs of the children who would then become uninsured.

3. The President's veto message also states, "*The bill would shift SCHIP away from its original purpose and turn it into a program that would cover children from some families of four earning almost \$83,000 a year.*"

As you know, the legislation actually restricts Federal funding for children covered at higher income levels. To date, no State covers children at these income levels. The State of New York did request a waiver to cover children in families with higher-than-eligible incomes due to that State having one of the highest cost-of-living levels in the country (e.g., goods and services that cost \$70,000 in Manhattan would cost \$30,000 in Houston). This waiver request was denied by this Administration.

Please identify the pages and line numbers in the legislation that you believe provides States with the right to expand eligibility to children in families earning \$83,000 a year. Please describe how you would modify such language to address your concerns on this matter.

4. The veto message states, "*In addition, under the bill, government coverage would displace private health insurance coverage for many children. If this bill were enacted, one out of every three children moving onto government coverage would be moving from private insurance.*"

As you know, insurance coverage for children in CHIP is provided predominantly through private health insurance, just like the "government coverage" that you and I receive as government employees. Furthermore, the Congressional Budget Office has noted that any effort to reduce the number of uninsured will result in some substitution of public funding for private funding, however, the proposal Congress supported that was vetoed by the President was perhaps the most efficient (i.e., lowest rate of substitution)

around. Other economists have noted that expansions of CHIP and Medicaid are much more efficient than proposals that would use tax credits to provide coverage.

Please provide to me the pages and line numbers in H.R. 976 where you believe the bill forces families to leave private employer-sponsored insurance coverage for coverage under CHIP. Please describe what modifications to the legislative language in those places you would make that would address your concern.

5. The President's veto message further states, "*The bill also does not fully fund all its new spending, obscuring the true cost of the bill's expansion of SCHIP, and it raises taxes on working Americans.*"

In case you are unfamiliar with the Congressional Budget Office's scoring of H.R. 976, a copy is attached for your reference. Please note on page 2 of the letter that the net budgetary effect of the legislation is actually a *savings* to the Federal Treasury over both the 5 and 10 year budget window. Please identify your basis for the President's belief that the bipartisan compromise bill does not "fully fund all its new spending" and what modifications you would make to the legislation to address this concern.

Furthermore, as regards the issue of the tobacco tax, recent data from the Centers for Disease Control (CDC), which is under the U.S. Department of Health and Human Services, show that 60 percent of adult smokers have incomes *above* 200 percent of the poverty line. Thus, low-income smokers will contribute a relatively modest share of the revenue collected by the proposed tobacco tax increase. Moreover, higher tobacco taxes would encourage more low-income smokers to quit, a worthy public health goal. Three out of every four smokers expected to quit as a result of the tobacco tax in this bill would be low-income. These are also the families that would benefit the most from H.R. 976. That is, no doubt, one of the many reasons why a letter was recently signed by five former Surgeons General who served under Presidents Carter, Reagan, George H.W. Bush, Clinton, and George W. Bush, *implo*ring Congress to override the President's veto.

If the Administration does not support the tobacco tax, please provide other sources of funding that would allow the bill to meet "pay-as-you-go" requirements over the 5 and 10 year budget windows.

6. Finally the President's veto message states, "*I hope we can now work together to produce a good bill that puts poorer children first, that moves adults out of the program meant for children, and that does not abandon the bipartisan tradition that marked the enactment of SCHIP.*"

As you know, this bipartisan legislation would cover no childless adult or parents under the CHIP after 2010. Only pregnant women could be covered under CHIP.

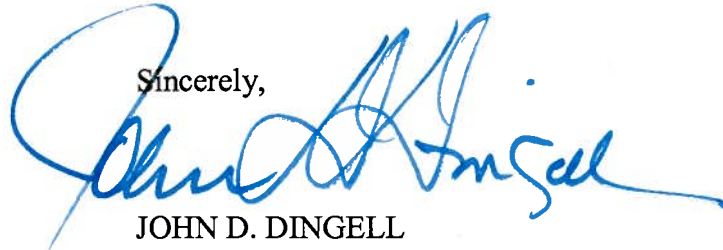
Please provide the pages and line numbers in the legislation where you believe such adults would be allowed to receive coverage under CHIP beyond 2010. Please identify the modifications needed to address your concerns.

The Honorable Michael O. Leavitt  
Page 4

I would conclude by noting that the President's claim that the Congress has abandoned the bipartisan tradition of SCHIP ignores the significant bipartisan support in the House and the Senate in the passage of H.R. 976.

I look forward to your expeditious response by no later than Friday, October 26, 2007. If you cannot respond fully by that time, please advise the Committee in writing of the date the Committee may expect your response.

Sincerely,

A handwritten signature in blue ink, appearing to read "John D. Dingell", is written over the typed name. The signature is fluid and cursive.

JOHN D. DINGELL  
CHAIRMAN

cc: The Honorable Joe Barton, Ranking Member  
Committee on Energy and Commerce