



March 3, 2004

Honorable Ron Wyden  
United States Senate  
Washington, DC 20510

Dear Senator:

On January 23, 2004, CBO stated in a letter to Majority Leader Frist that striking the “noninterference” provision (section 1860D-11(i) of the Social Security Act, as added by P. L. 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) would have a negligible effect on federal spending. This letter responds to your question concerning the potential for savings if that provision were modified to give the Secretary of Health and Human Services authority to negotiate prices for single-source drugs for Medicare beneficiaries.

Most single-source drugs face competition from other drugs that are therapeutic alternatives. CBO believes that there is little, if any, potential savings from negotiations involving those single-source drugs. We expect that risk-bearing private plans will have strong incentives to negotiate price discounts for such drugs and that the Secretary would not be able to negotiate prices that further reduce federal spending to a significant degree.

Nevertheless, there is potential for some savings if the Secretary were to have the authority to negotiate prices with manufacturers of single-source drugs that do not face competition from therapeutic alternatives. Private plans offering a prescription drug benefit to Medicare beneficiaries will have less leverage in negotiating discounts for drugs without therapeutic alternatives than they have in price negotiations for drugs that do face such competition. (In that regard, the Medicare plans will be no different than private health plans that offer prescription drug coverage to other populations.)

Under current law, there already are significant pressures that limit the prices that manufacturers charge for drugs—whether those drugs face competition from therapeutic alternatives or not. Those pressures include the prospects

Honorable Ron Wyden

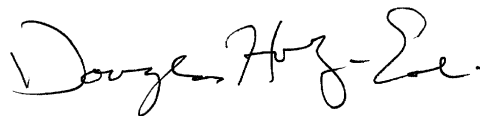
Page 2

that plans will not cover a drug (or will substantially limit the amount they pay for a drug) and that manufacturers will provoke a backlash (potentially including legislation) if they set prices too high. Moreover, the creation of the Medicare drug benefit has given federal officials greater opportunity and incentive than under prior law to bring pressure on manufacturers—for example, by influencing public opinion and policy makers—if the prices that manufacturers set for single-source drugs that are not subject to competition from therapeutic alternatives are perceived as being too high. Giving the Secretary an additional tool—the authority to negotiate prices with manufacturers of such drugs—would put greater pressure on those manufacturers and could produce some additional savings.

CBO has not estimated the effect on federal spending of authorizing the Secretary to negotiate prices for single-source drugs. The extent of any savings would depend significantly on the details of legislative language; a proposal that applied to a broader range of drugs could generate no savings or even increase federal costs. The effect on federal spending would also depend on how the Secretary would choose to exercise any new authority to negotiate prices.

If you have any further questions, we would be happy to answer them. The CBO staff contact is Tom Bradley.

Sincerely,

A handwritten signature in black ink that reads "Douglas Holtz-Eakin". The signature is written in a cursive, flowing style.

Douglas Holtz-Eakin  
Director

cc: Honorable William H. Frist, M.D.  
Majority Leader

Honorable Tom Daschle  
Democratic Leader

Honorable Don Nickles  
Chairman  
Committee on the Budget

Honorable Ron Wyden  
Page 3

Honorable Kent Conrad  
Ranking Member

Honorable Charles E. Grassley  
Chairman  
Committee on Finance

Honorable Max Baucus  
Ranking Democratic Member

Honorable Jim Nussle  
Chairman  
House Committee on the Budget

Honorable John M. Spratt Jr.  
Ranking Member

Honorable William "Bill" M. Thomas  
Chairman  
Committee on Ways and Means

Honorable Charles B. Rangel  
Ranking Member

Honorable Joe Barton  
Chairman  
Committee on Energy and Commerce

Honorable John D. Dingell  
Ranking Member