THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

JUL 26 2007

The Honorable Charles B. Rangel
Chairman
Committee on Ways and Means
House of Representatives
Washington, DC 20515

Dear Mr. Rangel:

I have had the opportunity to review the original Chairman's mark of the "Children's Health and Medicare Protection Act." Let me say at the outset, the President and I are committed to reauthorizing a program that has made a significant difference in the health of lower income children. Through 10 years of experience and bipartisan support, the State Children's Health Insurance Program (SCHIP) serves as a valuable safety net for children in families who don't have the means to purchase affordable health care. We are committed to its continuation, have proposed its reauthorization in the President's Budget and we urge Congress to complete its work and send the President a bill he can sign before the program expires September 30, 2007.

However, this legislation dramatically expands federal spending far beyond what is necessary to responsibly reauthorize SCHIP; increases the reliance of middle-class Americans on the government for their health care; jeopardizes the long-term solvency of the Medicare trust fund; and will result in the elimination of benefits and choices for Medicare beneficiaries. Accordingly, if this legislation were presented to the President as it is currently drafted, he would veto it.

There is a better way forward. It is clear that the health care conversation needs to be not just about how we insure poor children but how we ensure that every American has access to a private, basic, affordable health plan. The President believes in a better approach that includes a federal tax policy that eliminates discrimination against those who buy health insurance on their own and not through their employers. Members of Congress in both parties have long supported the use of tax incentives to increase the

number of Americans with health insurance. Unfortunately, your committees have not considered this approach - which would ironically result in far more Americans having health insurance than the proposed legislation.

Our more detailed views on the legislation follow. Additionally, a longer, more detailed views letter will be released by HHS in the future analyzing the new version of the legislation, the CBO score and enrollment tables.

Sincerely,

Michael O. Leavitt

Enclosure

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JUL 26 2007

The Honorable Jim McCrery
Ranking Member
Committee on Ways and Means
House of Representatives
Washington, DC 20515

Dear Mr. McCrery:

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JUL 26 2007

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
House of Representatives
Washington, DC 20515

Dear Chairman Dingell:

I have had the opportunity to review the original Chairman's mark of the "Children's Health and Medicare Protection Act." Let me say at the outset, the President and I are committed to reauthorizing a program that has made a significant difference in the health of lower income children. Through 10 years of experience and bipartisan support, the State Children's Health Insurance Program (SCHIP) serves as a valuable safety net for children in families who don't have the means to purchase affordable health care. We are committed to its continuation, have proposed its reauthorization in the President's Budget and we urge Congress to complete its work and send the President a bill he can sign before the program expires September 30, 2007.

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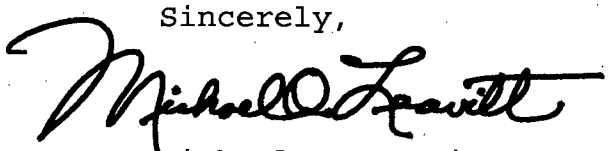

Michael O. Leavitt

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THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

JUL 26 2007

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
House of Representatives
Washington, DC 20515

Dear Mr. Barton:

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SCHIP Reauthorization

In his fiscal year 2008 budget proposal, the President proposed to re-focus the SCHIP program on its original intent: providing health coverage to children in low-income families whose income was too high to qualify them for Medicaid. The President believes that the generous enhanced match rate available under SCHIP should be limited to low-income children. Similarly, the Administration believes that adults who are covered under SCHIP should be transitioned to the State's regular Medicaid program. Because of the important strides made by the Deficit Reduction Act (DRA) that permitted States to operate much more flexible Medicaid State plans, it is no longer necessary to enroll adults in SCHIP through waivers, as it was prior to the enactment of the DRA.

The Chairman's mark takes a decidedly different approach. The Chairman's mark transforms this program into an entitlement that grows at rates that are in excess of health care inflation. Currently, Medicare has a 75 year unfunded liability of $34 trillion dollars and Social Security has a 75 year unfunded liability of $7 trillion. Also, Medicaid is requiring an ever increasing share of Federal resources. Now is not the time to be adding to these massive unfunded liabilities by taking a program that is working and turning it into an entitlement program with excessive Federal funding.

It would dramatically expand eligibility for SCHIP in several ways. It would allow States to cover "children" up to 25 years of age. This change opens the door to providing permanent coverage to childless adults, who have traditionally not been eligible for Medicaid or SCHIP. The bill also forecloses options for States to choose to cover unborn children as is currently done by many States. Overall, the mark encourages States to provide health services to individuals who are not eligible for SCHIP currently.

The mark is structured in a way that clearly favors government-run health care over private health insurance. The result of this legislation would be a dramatic encroachment of government-run health care resulting in

lower quality and fewer choices, which the American people have repeatedly rejected.

Payment Changes That Will Result in Reduced Medicare Benefits and Choices For Millions of Seniors

The Chairman's mark proposes to dramatically reduce payments to Medicare Advantage plans, which nearly 20 percent of Medicare beneficiaries rely on for their Medicare benefits. These payment changes are so draconian that the likely effect will be to eliminate the private Medicare Advantage option in many areas and for many beneficiaries.

The materials accompanying the Chairman's mark would lead a reader to believe that the dramatic reductions in payments to Medicare Advantage plans will only affect insurance company profits. The fact is that Medicare Advantage plans provide on average over $1,000 in additional benefits per year to individual Medicare beneficiaries enrolled in those plans. These payment cuts will have a direct negative impact on seniors.

Moreover, 57 percent of enrollees in Medicare Advantage have income between $10,000 and $30,000 compared to 46 percent in traditional Medicare. These low-income Medicare beneficiaries rely disproportionately on the additional benefits in Medicare Advantage, like cost sharing, to fill the gaps in coverage in traditional Medicare, and have access to $0 premium drug coverage and catastrophic caps on spending. Private Medigap coverage is an unaffordable product for many of these beneficiaries.

Additionally, these cuts will likely have a negative impact on the availability of private plan options in rural areas of our country. Because of a desire to give all Medicare beneficiaries access to additional choices for health coverage, Congress established payment levels to achieve that goal. As a result, from 2003 to 2007, there was a four fold increase in the number of Medicare Advantage enrollees from rural areas. The Chairman's mark puts that access in serious jeopardy.

The Chairman's mark prohibits enrollment in Medicare Advantage plans that bid above the benchmark. It mandates a medical loss ratio of 85%. It overturns the concept of actuarial equivalence by prohibiting differential cost

sharing from fee-for-service Medicare. This point is particularly notable, as it would result in Medicare beneficiaries being forced into a one-size-fits-all plan: something that over 90% of part D enrollees rejected. Finally, the Chairman's mark imposes additional barriers for employer group coverage.

The bottom line is that making the changes described above and limiting Medicare Advantage payments to the levels in the Chairman's mark will almost certainly lead to millions of Medicare beneficiaries losing their Medicare Advantage plans.

Part D Changes

CMS has taken significant steps under current statutory authority to limit mid-year negative formulary changes that could adversely affect beneficiaries. We believe that the proposal to allow changes in enrollment in response to negative formulary changes is the wrong approach because of the costs and disruption associated with mid-year switching.

We are very concerned about codification of the six protected classes of part D drugs. CMS current policy already mandates coverage of all or substantially all of the drugs in the six protected classes. Codifying this policy unnecessarily restricts the ability to make appropriate clinical changes to reflect new, different and improved drugs as they enter the market. We are also concerned that this codification may increase the incentives for pharmaceutical manufacturers to produce "me-too" drugs in the six classes, thus reducing the financial incentive to create newer drugs that could lead to health breakthroughs.

Fiscal Integrity

The Administration is committed to strengthening the long-term fiscal integrity of Medicare and Medicaid. We are concerned that the Chairman's mark would eliminate the excess general revenue trigger, a fail-safe measure that encourages Congress to act to preserve Medicare for future generations. In addition, the Chairman's mark curtails the Administration's ability to strengthen Medicare and Medicaid program integrity. Specifically, the Administration is prohibited from implementing a number

of administrative savings policies that would ensure Medicare payments accurately reflect the costs of services and guarantee that appropriate Medicaid services are reaching the intended beneficiaries.

We are also concerned about a number of the spending provisions in the Chairman's mark. For example, the bill would extend a hospital payment increase that was intended to be temporary. The Administration notes that the legislation includes some Medicare savings proposed in the President's Budget as offsets. However, these savings were intended to extend Medicare's long term sustainability for future Medicare beneficiaries and not to be used to increase other spending.

Transitional Medical Assistance

The Chairman's mark provides for a two year extension of Transitional Medical Assistance (TMA). This program has recently been extended as part of a package that has included the Title V Abstinence Program. Any two year reauthorization of TMA should include a two year reauthorization of Abstinence.

Tobacco Tax Increase

This legislation also imposes a massive, regressive tax increase that relies on an uncertain revenue stream for future funding. The Administration strongly opposes the proposed 45-cent increase in the federal excise tax on a pack of cigarettes to fund this expansion. Federal revenues relative to the size of the economy are already above their historical average level and the use of tax increases to fund spending increases is undesirable and inadvisable. The Administration is also concerned about the impact the proposed tax increase would have on state budgets, which have become increasingly dependent on tobacco-related taxes. An increase in federal cigarette taxes is also among the most regressive revenue raising measures one could propose.

Conclusion

In summary, this legislation is a wholesale move to government-run health care for large classes of children (including "children" of up to 25 years old) and for Medicare beneficiaries. The Committees have chosen the path of partisanship rather than the bipartisan tradition which marked the enactment of SCHIP and the Medicare

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