



April 10, 2007

Honorable Max Baucus  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

At the request of your staff, the Congressional Budget Office has reviewed a draft bill (MAL07194) that would make a number of changes to Medicare's prescription drug program.

Section 2 of that bill would revise section 1860D-11(i) of the Social Security Act, which is commonly known as the "noninterference provision" because it prohibits the Secretary of Health and Human Services from interfering in the negotiations between drug manufacturers, pharmacies, and sponsors of prescription drug plans (PDPs) involved in Part D of Medicare, or from requiring a particular formulary or price structure for covered Part D drugs. Section 2 would strike the clause that prohibits the Secretary from interfering in those negotiations. It would retain the clause that prohibits the Secretary from requiring a particular formulary, and it would allow PDPs to negotiate prices that are lower than those obtained by the Secretary.

In addition, the bill would modify the rules governing access of Congressional support agencies to data on prescription drug plans and Medicare Advantage plans. It also would require the Secretary to establish a prioritized list of potential studies of the comparative clinical effectiveness of drugs covered under Part D. Those provisions would have no effect on direct spending.

CBO estimates that modifying the noninterference provision would have a negligible effect on federal spending because we anticipate that under the bill the Secretary would lack the leverage to negotiate prices across the broad range of covered Part D drugs that are more favorable than those obtained by

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PDPs under current law. Without the authority to establish a formulary or other tools to reduce drug prices, we believe that the Secretary would not obtain significant discounts from drug manufacturers across a broad range of drugs.

I hope this information is helpful to you. The CBO staff contacts for further information are Eric Rollins and Shinobu Suzuki.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter R. Orszag". The signature is fluid and cursive, with the first name "Peter" and last name "Orszag" clearly distinguishable.

Peter R. Orszag  
Director

cc: Honorable Charles E. Grassley  
Ranking Member