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The Honorable Kathleen Sebelius
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue SW, Room 639G
Washington, DC 20201

Dear Madame Secretary:

This letter is in reference to a recently published plan by the Department of Health and Human Services (HHS) to assess, via a "mystery caller approach", Americans' access to primary care and whether private insurance beneficiaries receive different service than those with public insurance. [Federal Register: 28 April 2011 (Volume 76, Number 82)].

I thank you for your concern and wanting to ensure that there is an adequate health care provider network to meet the needs of current and future patients in the country, and commend your current efforts to review any difficulties that exist in navigating the current system, especially in the realm of public insurance programs.

The Association of American Medical Colleges (AAMC) predicts Americans will need an estimated 45,000 primary care physicians and 46,000 surgeons and medical specialists by 2020. We currently face a shortage of just over 13,000 doctors, but without crucial intervention, that number will balloon to a shortage of 91,500 in the next ten years. As the American population ages it is more important than ever to ensure there are general practitioners, emergency medical specialties and gerontologists equipped to handle the increased patient volume. We can all accept the basic premise that this country is experiencing a provider shortage that is growing and multifaceted policies are needed to reverse this trend.

With the tremendous growth expected in public insurance over the next several years, the ability of the Medicare and Medicaid populations to access care must be forefront in these larger discussions on how to encourage more of our young citizens to embark on health care careers. In the Medicare program the current beneficiary pool of over 46.5 million is expected to grow to an estimated 78 million with the retirement of the baby boom generation. In Medicaid, the enactment of the Patient Protection and Affordable Care Act (PPACA, P.L.111-148) and Health Care and Education Reconciliation Act (HCERA, P.L. 111-152) could add nearly 25 million Americans to the Medicaid program by 2014 to an estimated 79.2 million with at least 1 in 4 Americans eligible for Medicaid.

I am willing to accept the premise that the current design of these programs, with their notoriously poor provider reimbursement, onerous paperwork requirements and convoluted administration provide disincentives to provider participation. I will further stipulate that the enactment of PPACA and HCERA will only make it harder for Medicare and Medicaid beneficiaries to access points of care, particularly primary care. As noted, many factors have led to a declining provider base that further disrupts the balance of supply and demand. Finally, our inability to enact policies such as meaningful liability reform, and Medicaid and Medicare reform has rendered the programs fiscally unsustainable, and providers poorly reimbursed. Without such reforms, such as enacting a long term fix to the Sustainable Growth Rate participation will further decline. These issues can intuitively impact timely physician appointments and warrants study on how to correct these underlying issues.

However, in an effort to determine the status of this availability, HHS has proposed a "mystery caller" plan, whereby non-beneficiary callers will pose as potential patients to a select group of medical offices. Their calls will describe medical scenarios ranging from urgent to routine care, either posing as privately insured individuals or publicly insured beneficiaries. The immediate stated goal is to collect data on delays, routine appointment times, and acceptance of beneficiaries with varying forms of insurance. On its face I feel this data will point to what I feel most doctors would readily admit, without subterfuge. We need new physicians in this nation, we need to enact policies that make public insurance more attractive to provider participation and despite its own flaws, in general, private insurance is more attractive to providers.

As a physician, I assure you our ultimate goal as health care providers is quick, appropriate care for all patients. While I will accept that your goals of this new approach are done with the best of intentions, I am unsure why we are further studying well-identified problems instead of coming together to actually solve these issues.

In my dual role as a Member of Congress and a physician, I also want to alert you that this approach is already yielding unintended consequences and I fear that despite even the best of intentions, you may further drive physicians from public insurance. I do not believe this is an outcome that serves the integrity of these programs or their beneficiaries. For example, physicians are already voicing their concern that deception and needed funds (almost \$350,000) are being used to obtain information that we already know: there is a physician shortage. Clinicians are fearful this data could be used to target them for punitive consequences if they don't meet undisclosed standards, which the department has not refuted. As well, the method sows mistrust in an already strained system, further eroding an already tenuous relationship.

As a result, physicians are expressing to me an increased desire to withdraw from Medicare and Medicaid. Naturally, this will worsen access to primary care for all patients. This certainly, I will assume, is not your intent.

To address these concerns about this proposed program, I ask that the Department of Health and Human Services suspend implementation of the "mystery caller" plan until further evaluation of both your approach can be conducted. It will provide a chance to

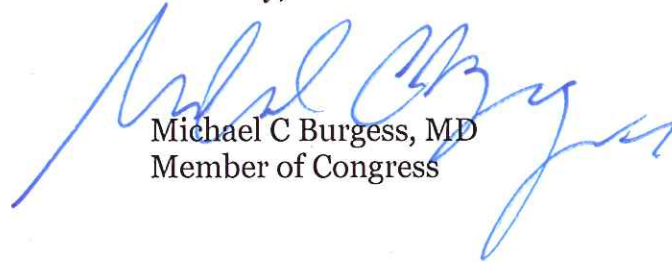
openly discuss a means to ensure the department has the access data you need to fulfill your responsibilities to guarantee beneficiary access under both Title XIIX and XIX. I believe the best place to start is by posting an announcement that the plan as proposed will be suspended and engage the congressional committees of jurisdiction including the House Committee on Energy & Commerce, & Ways and Means, as well as the Senate Finance Committee in a discussion on this matter.

As Vice Chairman of the Energy & Commerce Health Subcommittee, I hope to participate in such discussions. It is my hope that these actions will send a signal to the health care provider community that you are aware of their concerns and are dedicated to rebuilding a bridge of trust. It will also provide a means by which we may find a better, more reliable and trustworthy method to help our health care system in providing primary care access to all beneficiaries.

Again, I thank you for your concern about the structure of our current public health programs. Their inherent flaws discourage provider participation, and meaningful data that is built on trust with the physician community will aid us in correcting these deficiencies. However, I feel the unexpected impact of your proposed approach would outweigh any benefits.

I hope you will consider my recommendations and act accordingly to suspend the implementation of the "mystery caller" approach until appropriate interactions with Members of Congress can be held. I thank you for your consideration of this request and should you have any questions regarding this matter, as always, feel free to contact me directly or have your staff contact my Deputy Chief of Staff, J.P. Paluskiewicz at (202) 225-7772.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael C Burgess", is written over the typed name and title.

Michael C Burgess, MD
Member of Congress