



Leadership Council of Aging Organizations

October 24, 2007

Dear Senator:

The undersigned members of the Leadership Council of Aging Organizations (LCAO)—a diverse coalition that advocates on behalf of millions of Medicare beneficiaries—are writing to ask for your support for a number of urgently-needed improvements and protections to the Medicare and Medicaid programs.

We understand that later this fall the Senate Finance Committee plans to consider legislation that will prevent the scheduled reduction in physician payments, as well as make a number of significant beneficiary improvements. As beneficiary advocates, we strongly believe that any Medicare and Medicaid legislation that is passed this year should include the fundamental provisions listed below. Many of your Senate colleagues share our views and have already introduced legislation including these provisions in the 110th Congress.

Improve Low-Income Protections

The Medicare Savings Program (MSP) for Parts A and B and the Low-Income Subsidy (LIS) for Part D directly help beneficiaries with low incomes and assets afford their Medicare out-of-pocket costs. We believe that the Senate Medicare package should include provisions similar to those in a number of bills introduced by Senator Bingaman and Senator Smith (S. 1102, 1103, 1107, 1108 and S. 2101) that improve these programs. The following targeted improvements would help to ensure that millions more Medicare beneficiaries in greatest need receive the assistance they deserve.

- Raise the asset limits for the MSP and LIS programs to be more reflective of seniors with limited incomes who have managed to save a modest nest egg for retirement.
- Allow low-income beneficiaries to enroll in the LIS program at any time, without a penalty.
- Make the Qualified Individual (QI) program (one of the Medicare Savings Programs) permanent and expand income eligibility to 150 percent of the federal poverty level.
- Eliminate Part D cost-sharing for full benefit dual eligible beneficiaries receiving care through home- and community-based care waivers.
- Simplify the LIS and MSP application forms and processes.
- Increase funding for low-income outreach and enrollment efforts through the State Health Insurance and Assistance Programs (SHIPs), the National Center on Senior Benefits Outreach and Enrollment, State and Area Agencies on Aging, and Native American aging programs; and
- Allow costs paid by pharmaceutical manufacturer patient assistance programs, AIDS Drug Assistance Programs (ADAP), Federally Qualified Health Centers, and the Indian Health Services to count towards True Out-of-Pocket Costs (TrOOP) for Part D.

Enhance Access to Preventive Care

Preventive care can improve beneficiary health outcomes and lower Medicare spending by preventing the onset of costly diseases. We believe the Senate package should include provisions similar to those in S. 2115, the *Medicare Preventive Services Coverage Act of 2007*, introduced by Senator Cardin, that would eliminate out-of-pocket costs for preventive benefits and allow the Secretary of Health and Human

Services to cover new preventive services as their medical necessity and efficacy are established, without seeking a change in the Medicare law to include the new service.

Provide Parity for Mental Health Services

Under current law, Medicare imposes an unfair and discriminatory coinsurance rate of 50 percent for outpatient mental health services, as compared to 20 percent for most outpatient services under Medicare. This disparity prevents Medicare beneficiaries from accessing the mental health services that they need. We believe the Senate package should include provisions similar to those in S. 1715, the *Medicare Mental Health Copayment Equity Act*, introduced by Senator Snowe and Senator Kerry to gradually reduce Medicare's coinsurance for outpatient mental health services, eventually bringing parity between coverage for mental illnesses and physical illnesses.

Enhance Consumer Protections for MA and PDP Beneficiaries

The Senate package should include provisions to protect beneficiaries against the fraudulent marketing practices of some Medicare Advantage and Part D prescription drug plans. We encourage the Senate to include provisions similar to those in S. 1883, the *Accountability and Transparency in Medicare Marketing Act of 2007*, introduced by Senator Kohl. This legislation would request the National Association of Insurance Commissioners to develop standardized marketing requirements for Medicare Advantage organizations and prescription drug plans.

Improve Part D Benefits

We urge the following provisions be included in the Senate package, which could immediately improve Part D benefits for countless beneficiaries.

- Codify current Centers for Medicare and Medicaid Services (CMS) policy requiring plans to cover substantially all drugs in six protected classes, a proposal included in S. 1887, the *Medicare Access to Critical Medications Act*, introduced by Senator Smith and Senator Kerry.
- Remove the exclusion of benzodiazepines, drugs commonly used to treat mental illnesses, from required coverage under the Medicare prescription drug program. Senator Cardin has introduced S.137, the *Preserving Medicare for All Act*, which includes a provision allowing Part D plans to cover benzodiazepines.
- Prohibit beneficiaries from being locked into their Medicare Advantage and Part D prescription drug plans. We encourage the Senate to include provisions that would eliminate Part D's "lock-in" provision and would ensure that beneficiaries can enroll in a plan that best meets their health needs.

Reduce Health Disparities and Language Barriers

The Senate package should take steps to address health disparities and language barriers affecting Medicare beneficiaries. Racial ethnic/minority seniors are more likely to be low-income, and are unable to equally access certain Medicare services, including common preventive measures. Requiring CMS to collect and make available health disparities data, including race, ethnicity and primary language is an important first step in identifying and eliminating these disparities. In addition, since more than two million Medicare beneficiaries are limited English proficient, language assistance is needed for health services to be effective. Beneficiaries unable to understand basic medical instructions are much more likely to die within six years than those who comprehend the information. The Senate package should provide Medicare payment for services necessary to ensure that the language beneficiaries speak does not affect their health or mortality.

Prevent Spousal Impoverishment of Medicaid HCBS Enrollees

The Senate should also act to reverse a harmful policy by the Centers for Medicare and Medicaid Services (CMS) that erodes spousal impoverishment protections and forces frail individuals into institutionalized care. Medicaid's spousal impoverishment provision was created to prevent a couple's lifetime savings from being depleted when one of the spouses is receiving long-term care services. Current federal law appears to extend the protections of an "institutionalized spouse" to individuals enrolled in Medicaid home and community-based care services (HCBS) waiver programs, but CMS has recently advanced the opinion that the protections extend only to the spouses of HCBS enrollees within a particular income limit. We encourage the Senate to expand the definition of an "institutionalized spouse" to include, at state discretion, *all* married HCBS enrollees. Senator Schumer and Senator Clinton have been working on this issue and wrote to CMS about this dangerous precedent in June 2007.

Protect Health Care Access for Medicare and Military Beneficiaries

Physicians serving Medicare beneficiaries are scheduled for a 10 percent cut in their reimbursement rates next year and further reductions for years to come. Multiple surveys of providers have indicated that a substantial share of providers would stop seeing new Medicare and military TRICARE patients and/or curtail existing patient loads if the physician payment cuts planned under current law take effect. Because military TRICARE payments are tied to Medicare's (and are typically discounted below Medicare's under TRICARE Prime) and because many doctors have relatively few TRICARE patients, these cuts particularly threaten health care access for military beneficiaries. We encourage the Senate package to ensure that physicians are adequately compensated so they can continue serving Medicare and military beneficiaries.

Strengthen and Preserve the Medicare Program

We believe that the Senate should improve the integrity and viability of the Medicare program by equalizing payments between private Medicare Advantage plans and traditional Medicare. Adopting the Medicare Payment Advisory Commission (MedPAC) recommendation of financial neutrality would save billions of taxpayer dollars, improve the solvency of the hospital insurance Trust Fund, and reduce Part B premiums for all beneficiaries. Furthermore, the savings achieved from reducing such private insurance overpayments could be used to enact necessary Medicare beneficiary enhancements.

The Senate package should also include provisions to repeal the arbitrary 45 percent limit on general revenue funding of the Medicare program as well as the comparative cost adjustment demonstration project, the so-called "premium support" demonstration, slated to begin in 2010. Senator Cardin has introduced legislation (S.137, the *Preserving Medicare for All Act*) which includes these proposals. The 45 percent funding limit is an arbitrary benchmark that is inconsistent with Medicare's basic financing structure. The premium support demonstration will further weaken traditional Medicare by providing voucher-like payments which may lure healthier seniors to private plans.

On behalf of millions of older Americans, we urge you to support our collective efforts to improve Medicare. We thank you for considering our views and look forward to working with you to ensure that Medicare continues to meet the needs of our nation's seniors.

Sincerely,

AFL-CIO
AFSCME Retirees
Alliance for Retired Americans
American Association of Homes and Services for the Aging
American Association for International Aging
American Foundation for the Blind

American Public Health Association
American Society on Aging
APWU, Retirees Department
Association for Gerontology and Human Development in Historically Black Colleges and Universities
B'nai B'rith International
Families USA
Gray Panthers
International Union, United Auto Workers
Military Officers Association of America
National Academy of Elder Law Attorneys
National Adult Day Services Association
National Association of Professional Geriatric Care Managers
National Association of RSVP Directors
National Association of Social Workers
National Association of State Long-Term Care Ombudsman Programs
National Association of State Units on Aging
National Committee to Preserve Social Security and Medicare
National Council on Aging
National Indian Council on Aging
National Senior Citizens Law Center
National Senior Corps Association
NCCNHR: The National Consumer Voice for Quality Long-Term Care
OWL, The Voice of Midlife and Older Women
Service Employees International Union