

# United States Senate

WASHINGTON, DC 20510

April 3, 2009

Ms. Charlene Frizzera  
Acting Administrator  
The Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Ms. Frizzera,

We write to express our concerns regarding the Centers for Medicare and Medicaid Services (CMS) proposed changes to Medicare Advantage (MA) rates for calendar year 2010. The advance notice raises two important issues that, if implemented, would result in highly problematic premium increases and benefit reductions for MA enrollees across the country. The changes would lead to a 5 percent reduction in payments to MA plans that would likely cost each MA enrollee hundreds of dollars in 2010.

First, we are concerned that the National Per Capita MA Growth Percentage is projected to decrease by 1.1 percent in 2010. This projection is entirely inconsistent with historical trends in the industry. Over the past five years, the growth percentage has increased by an average of 6 percent per year. Even when taking into account the extremely large Sustainable Growth Rate (SGR) cut that is currently scheduled for 2010, we do not believe that overall Medicare spending is likely to drop by such an unprecedented amount. If MA rates are changed using this projection, it will lead to very real disruptions for health care delivery systems, care providers and, most importantly, the large number of MA enrollees in our states.

Additionally, CMS is proposing a 3.74 percent reduction to all plans because differences have been observed between the coding practices of some MA plans and coding under traditional Medicare. While inconsistent coding practices must be examined, we have serious concerns with this overly broad approach. We encourage CMS to adopt a policy that differentiates between plans with efficient coding practices and those that code inaccurately. Without making this distinction, the change will penalize the very practices we should be trying to encourage.

Further, the current approach imposes three years of coding adjustment in a one year change, which would have an excessive impact on all plans, particularly those that have been coding appropriately for their patient base. We urge CMS to moderate their approach and impose not more than a one-year adjustment for coding intensity.

We fully support increased efforts by CMS to monitor the MA program. However, reforms must always protect the interests of Medicare beneficiaries. If the proposed changes to MA rates are implemented, MA enrollees in our states could face substantially higher premiums and lose

valuable benefits. We must work to develop productive reforms that protect the interests of MA enrollees.

Sincerely,

Maria Lombardi

Allen Fein

Patty Murray

Mike Enzi

Ron Wyden

Shirley Staben

Jeffrey A. Meekins

Dirk Vitter

Amy Klobuchar

John McClellan

Mike Crapo

John G. Hatch

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*Jim Berman*

*Phil Manning*

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Cc: Jonathan Blum, Acting Director, Center for Drug and Health Plan Choice;

Charlie Johnson, Acting Secretary, Department of Health and Human Services