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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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April 3, 2009

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

Dear Ms. Frizzera:

We are writing in regards to the Centers for Medicare and Medicaid Service (CMS) Advance Notice of Methodological Changes for CY 2010. As you know, CMS' proposal for updating Medicare Advantage benchmarks reflects the current payment formula for physicians participating in the Medicare program. Under the current formula, payments to physicians in the Medicare fee-for-service program will be reduced by 21 percent in 2010, unless Congress acts before January 1<sup>st</sup> to change the law. Unfortunately, by the time Congress acts at the end of this year to change the physician payment formula, it will be too late for plans to resubmit their bids for the 2010 plan year.

Since CMS has stated that the Advanced Notice must be based on current law, we understand the difficult situation you face in setting the Medicare Advantage benchmarks for next year. Even though Congress fully intends to avert the sizable physician pay reduction and is actively developing changes to the physician fee formula, CMS assumes current law in its update for Medicare Advantage plans.

However, not being able to take into account the physician payment update that Congress intends to enact later this year could result in unnecessary premium increases and benefit reductions for current Medicare Advantage enrollees. It could also lead to unintended payment reductions to physicians that participate in Medicare Advantage.

Congress does not intend to ignore the problems in the physician fee schedule, nor does it intend for these consequences to Medicare Advantage to take place. Last night, the Senate voiced its commitment to address the physician fee schedule and to avoid Medicare Advantage premium increases and benefit reductions in 2010 that would result from the current fee schedule by adopting an amendment to the Budget Resolution, S. Con. Res. 13. This language in the Budget Resolution was added by the full Senate during floor debate yesterday out of recognition of the seriousness of this situation.

Given the extraordinary nature of the circumstances surrounding the fee schedule and Medicare Advantage, we urge CMS to take appropriate steps to address this issue. We remain firmly committed to CMS following its statutory mandate. But we also see this as a circumstance that warrants an innovative solution.

Thank you for your thorough attention to this important issue. We look forward to hearing from you regarding steps you will be taking to address this priority.

Sincerely,



Max Baucus  
Chairman



Charles Grassley  
Ranking Member