

United States Senate
WASHINGTON, D.C.

January 21, 2014

Via Electronic Transmission

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Sebelius:

We are writing about the Department's recent press release entitled "More Than 25 Million Original Medicare Beneficiaries Received Free Preventative Services Through November 2013," recently issued by the Centers for Medicare and Medicaid Services (CMS).¹ Like previous press releases out of your Department, this press release selectively highlights a small expansion of services to seniors with fee-for-service Medicare, and suggests the benefits are "free."

We are concerned this is misleading for two reasons. First, everyone knows there is no such thing as a free lunch—someone is paying for these benefits. So they are not truly "free."

Second, the release selectively highlights a small expansion of services law to seniors with fee-for-service Medicare provided by Patient Protection and Affordable Care Act ("Obamacare"), while neglecting to fully inform readers about the \$716 billion cut from Medicare plans and providers that was spent on new government programs under the health care law.

Another example of concern is found in the second paragraph, with CMS Administrator Marilyn Tavenner's statement claiming that "the Affordable Care Act makes Medicare stronger and improves the wellbeing of millions of beneficiaries." Yet, Medicare's Chief Actuary has already noted that, absent legislation to intervene and correct payment cuts in the new law, some providers would "end their participation in the program" with the effect of "possibly jeopardizing access for beneficiaries."

The Chief Actuary further concluded that 15 percent of Part A providers - hospitals, skilled nursing facilities, hospices and some health agencies - may be unable to sustain their operations in the next ten years as a result of the drastic Medicare cuts in the new law. Again, it appears misleading to consumers and seniors, and we fear that a more comprehensive and balanced presentation of the important facts may have been purposefully omitted from this release.

But ignoring the facts does not change them. Unless Congress intervenes, seniors will lose health services due to specific Medicare cuts in the health care law. We believe any reductions in Medicare should be used to reduce the deficit and strengthen Medicare's solvency - not fund a new entitlement program.

¹ Centers for Medicare and Medicaid Services. *More than 25 million Original Medicare beneficiaries received free preventive services through November 2013*. December 2013. <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-Releases/2013-Press-Releases-Items/2013-12-17.html>.

You will remember we have previously warned you that your Department was “falsely marketing specific services provided through Medicare” as due to the health reform law, claiming things were “free.”² Accordingly, we do acknowledge that your Department has made some small improvements in responding to our call to adhere to more factual and accurate advertising. While we identified problems with the press release outlined above, we were encouraged that the release included a more specific and accurate statement in discussing how many people received at “at least one preventative service *at no cost* to them” (emphasis added). It is more accurate to discuss the lack of cost-sharing for a beneficiary than to suggest there are no costs borne by taxpayers.

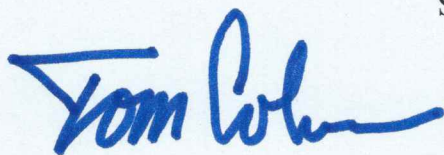
We believe that your Department has, as all federal agencies do, both a practical and a moral duty to our seniors and consumers to provide an accurate and full representation of the state of programs and services for which taxpayers effectively pay. Insofar as this affects the health and well-being of Medicare beneficiaries, this is more than an issue of partiality and bias, but an important duty to our seniors whose access to health care is at stake.

The selective lauding of entitlement benefits without mention of the cost to the taxpayer would be biased and unfair. Therefore, we respectfully request your Department:

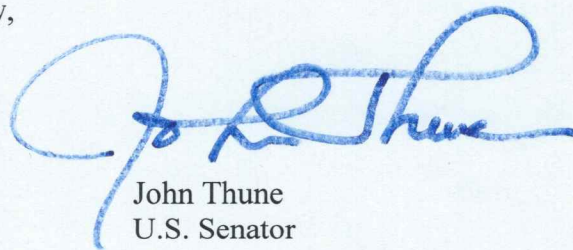
- (1) amend the online version of this press release
- (2) review the archive of online press releases to excise the use of claims of “free” benefits in Medicare due to the health reform law
- (3) refrain from any future use of “free” benefits in Medicare due to the health reform law

Thank you for your attention to this important matter. We respectfully request your Department take these actions within two weeks of receipt of this letter. Should you have any questions regarding this letter, please contact any of our staff.

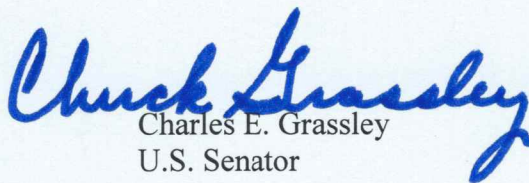
Sincerely,



Tom Coburn, M.D.
U.S. Senator



John Thune
U.S. Senator



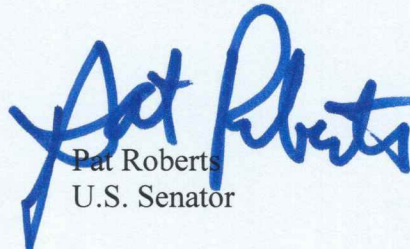
Charles E. Grassley
U.S. Senator



Michael B. Enzi
U.S. Senator



Richard Burr
U.S. Senator



Pat Roberts
U.S. Senator

² http://www.coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=cc12aca1-e493-4f3a-aaa9-8544c77f37c4