

# United States Senate

WASHINGTON, DC 20510

January 9, 2012

Marilyn Tavenner  
Acting Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Dear Ms. Tavenner:

As you well know, the Affordable Care Act (ACA) revised the formula for reimbursing pharmacies for generic drugs in the Medicaid program using the average manufacturer price to set Federal Upper Limits (FULs). This policy was intended to ensure that pharmacies are paid fairly and accurately for their costs to purchase prescription medications and dispense them to Medicaid beneficiaries.

However, we are hearing concerns about CMS's approach to developing the ACA's FUL policy. In publishing three draft lists of Medicaid drug FULs on September 22, 2011, October 21, 2011 and November 18, 2011, CMS has provided states with a potential unofficial standard for setting state maximum allowable costs (MACs). Specifically, pharmacists believe that if states were to implement MACs based on the CMS's draft FUL lists, pharmacies could see reduced reimbursement for selected generic drugs in the range of 30% to 60% of acquisition costs. Cuts of this magnitude could create a disincentive to dispense generic drugs, which is exactly the opposite of what we should be trying to achieve as we seek to control health care costs.

When setting pharmacy reimbursement rates, it is important that both components of reimbursement -- product cost and cost to dispense -- be taken into consideration to ensure pharmacies are adequately paid.

We must ensure that patients continue to have access to generic drugs at convenient, community pharmacies. We urge CMS to take into consideration these concerns as the Agency's rulemaking process on this issue continues, and look forward to receiving your response.

Sincerely,

Kent Conrad

John Hoenes

Mark F. B. A.

Olympia Snowe

Daniel K. Akaka

Patrick Leahy

Jim Johnson

Ray Bend

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Bob Carey, Jr.

Madeline

Jon Tustin

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cc: Cindy Mann, Deputy Administrator and Director, Center for Medicaid, CHIP and Survey & Certification