

United States Senate
WASHINGTON, DC 20510

April 24, 2015

The Honorable Sylvia Mathews Burwell
Secretary
United States Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Burwell:

We are writing to encourage the Centers for Medicare and Medicaid Services (CMS) to help preserve Medicaid beneficiary access to their needed medications by working to support proper and accurate reimbursement for retail community pharmacies that dispense prescription drugs to Medicaid beneficiaries, and by ensuring that state Medicaid programs have sufficient time to implement federal regulatory changes.

Last year, many of us wrote to then-Secretary Kathleen Sebelius raising concerns with CMS' timeline for finalizing the new Average Manufacturer Price (AMP) based Federal Upper Limits (FULs). We understand CMS has indicated that it will publish the Final Rule on Medicaid Covered Outpatient Drugs in April 2015. In addition, in a November 2014 memo, CMS further indicated that at the same time as the release of the Final Rule, CMS intends to finalize the new FULs and guidance to states for implementing those FULs.

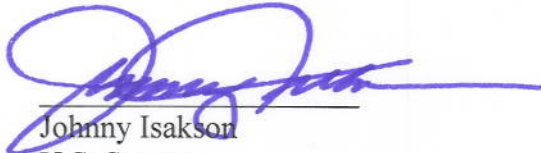
In the November 2014 memo, CMS stated that the guidance to the states would include timelines for state compliance with the new FULs. In light of CMS' upcoming regulatory action, we continue to urge that states be provided with at least a one year compliance period for implementing the FULs and policies contained within the Final Rule and related guidance. There are a number of factors that could slow down the progress with which many states can transition to AMP-based FULs. For example, states need time to pass drug reimbursement changes through their legislatures, particularly in light of the fact that a number of state legislatures end their sessions in spring or early summer every year. States will also need sufficient time to conduct cost-of-dispensing studies to allow for the calculation of fair pharmacy reimbursement, as well as the time needed to file State Plan Amendments to make adjustments in light of the new FULs.


Additionally, we ask CMS to engage with retail community pharmacies and other stakeholders so that enrollees' access to the medications that they need may not be disrupted. To that end, we encourage CMS to work with the states to support retail community pharmacies receiving fair and accurate reimbursement for the Medicaid drugs that they dispense. Relatedly, we request that CMS promulgate regulatory guidance and final FULs that can help retail community pharmacies avoid being reimbursed below their cost of acquiring and dispensing prescription


drugs, particularly in light of the movement toward cost-based ingredient reimbursement under AMP-based FULs.


We appreciate you taking into consideration our concerns regarding changes to Medicaid drug reimbursement policy. Accordingly, we urge you to promulgate reimbursement policies that can help to maintain and promote Medicaid enrollee access to their much-needed medications.


Sincerely,

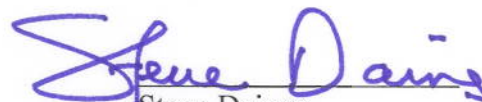

Johnny Isakson
U.S. Senator

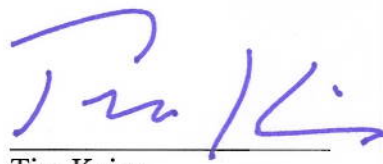

Mark R. Warner
U.S. Senator

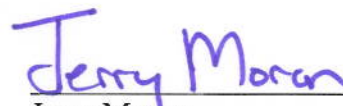

Tammy Baldwin
U.S. Senator



Roy Blunt
U.S. Senator

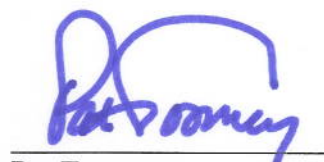

Shelley Moore Capito
U.S. Senator


Steve Daines
U.S. Senator


Tim Kaine
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