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State of Maine

Before the House Government Reform Committee
Briefing on the Medicare Drug Benefit
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Representative Waxman and members of the Committee:

It is an honor to be here today to speak with you about Maine's experience with the implementation of the Medicare Drug Benefit. My name is Jude Walsh and I serve as the Governor Baldacci's Director of Pharmacy Affairs in Maine and have overall responsibility for the implementation of the Medicare Drug Benefit in my state.

For the purposes of my testimony today I will concentrate on our experience transitioning our Dual eligibles to the Medicare Part D benefit. There are approximately 45,000 dual eligible individuals enrolled in the MaineCare Program – Maine's Medicaid Program. Maine, like many other states, has invested a tremendous amount of time and effort to prepare for the safe transfer of its duals to Part D. Part of this preparation included an analysis of the formularies of all the Prescription Drug Plans available to our duals. The analysis showed that 1 out of every 4 dual members had been assigned to plans where less than 60% of their drugs were covered and available without prior authorization. We sought and gained permission from CMS to intelligently reassign these members to plans that covered over 95% of their drugs.

This preparation also included working closely with our pharmacists. They alerted us to a potential major problem in late December. They were concerned that they could not verify Part D eligibility for 40-50% of their dual clients. This means that they would not be able to get the plan to pay for those members' prescriptions. In addition, we had received our MMA file – the file identifying duals from CMS- that had only 4 people eligible for low-income subsidies when all 45,000 duals should have had this subsidy available to them. These issues prompted the Governor to draft an urgent letter to Dr. McClellan outlining these issues. CMS assured us that they had "developed a process for a point of sale solution to ensure full dual eligible individuals experience no coverage gap when Part D coverage commences."

We also set up a toll free hotline where low-income seniors could call for information about Part D, assisted with enrollment into plans and helped people apply for Low Income Subsidies. The last week of December we were averaging about 15,000 calls a day from confused seniors. This call volume was very difficult to manage for a state of Maine's size. In fact, at one point we tied up almost all outgoing lines in State Government. This hotline enabled us to respond quickly during the first few days of January when thousands of Maine seniors were not able to access their Federal drug benefit.

State staff, including Governor Baldacci, were monitoring phone lines over the New Year's holiday weekend. We made plan assignment information available to Maine pharmacists that was not available in the federal database. We created a "wrap" benefit to assist with co pays on brand name drugs for our duals - because co pays unfortunately became mandatory under the federal benefit. On New Year's Day we immediately began hearing about problems. We tried contacting

plans and some were closed or did not answer their phones. Pharmacists were put on hold an hour or more – and at one point our largest independent pharmacy had all 13 outgoing lines on hold with plans.

By Tuesday the 3rd we were up to 18,000 calls from people who could not get their medications. In some cases they were being charged a $250 deductible and over a $100 in co pays. Many were leaving pharmacies without life sustaining medications. People on dialysis were being denied medications, transition plans – for coverage of at least a 30 day supply of current medications, were being denied. It was chaos. One woman I spoke to said she would burn down her house if she didn't get her mental health medication, a man I spoke to said he had saved all month for his wife's co pays of $1 and $3 – he didn't have co pays under Medicaid – and he went into the pharmacy to pick up her 15 medications – he was charged over $100 and told me he left with one drug. He called to say his wife could not live without her medications and what was I going to do for him.

People were calling non-stop. Nobody could get his or her medicine. They were crying. They had no place else to turn. The State had to act. At 11:30 am Tuesday morning the Governor had heard enough. He instructed me to do everything necessary to save these people. And do it immediately.

We created an emergency override for pharmacists to bill the State under the following conditions:

- Duals being charged excessive co pays
- Duals being denied transition coverage
- Duals being denied injectable drugs like insulin and cancer medication when they live in nursing homes
- Duals assigned to a plan but not found in the national database

Nearly 3,000 members used this override on the first day. Several thousand members continue to use this override everyday in order to obtain their drugs. We have spent millions of dollars. Although there is some evidence that the use of the override is declining, it appears that a safety net will be required indefinitely.

The federal drug benefit was not ready January 1st and is still not ready today. Maine is not the anomaly – many other states have been similarly affected. CMS has promised solutions but no timeline. The safety net is still needed. Thousands and thousands of duals effectively lost their drug benefit when their Part D coverage began January 1st.

We remain concerned about the repayment of money to our state spent to provide this safety net. CMS, rather than the State's need to obtain the money from the plans. CMS needs to repay the State's directly for the high costs we have incurred. I would also recommend allowing duals to transition their medication over 90 days for drugs requiring prior authorization this would help ensure that providers have time to complete prior authorization requests for the many different plan formularies and assure that duals once again will not go without necessary medication waiting for this process to occur.

Thank you for the opportunity to testify. I would be happy to answer any questions you might have.