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October 12, 2006

The Honorable Michael O. Leavitt
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Mr. Secretary:

I am writing to you about a serious matter related to the Medicare prescription drug program. It appears that the Department misled seniors when it asserted in a recent release that "[t]he monthly premium beneficiaries will pay in 2007 will average $24 if they stay in their current plans — about the same as in 2006." My staff has done an independent analysis of the 2007 Medicare drug premiums. The average premium for seniors who participate in a Medicare drug plan in 2007 will not be "about the same" as in 2006. In fact, average premiums will increase by over 10%, and in some cases by much more.

On September 29, 2006, the Department of Health and Human Services issued a press release on the new "2007 Drug Plan Options." This release, which was reported in papers across the nation, asserted that seniors will have "new options with lower costs," that "[t]he monthly premium beneficiaries will pay in 2007 will average $24 if they stay in their current plan — about the same as in 2006," and that "strong competitive pressure resulted in bids … that average 10% less than 2006." You were quoted in the release as saying: "The Medicare prescription drug benefit … just keeps getting better."

The Department's numbers appear to be wrong, and they disguise significant increases in premiums for Medicare drug plans. The release of erroneous information about the cost of premiums — whether deliberate or not — is a disservice to millions of seniors and a discredit to the Department.

My staff has analyzed the changes in Medicare drug premiums between 2006 and 2007 in three separate ways: (1) the average change in premiums across all Medicare drug plans; (2) the average change in premiums across all Medicare drug plans that will offer the same benefit in 2007 that they offered in 2006; and (3) the average change in premiums for the lowest-priced

Medicare drug plan in each state. Each analysis reached the same conclusion: premiums for Medicare drug plans are increasing rapidly in 2007. Specifically, the staff found:

- Average premiums across all Medicare drug plans are increasing 10.8% in 2007, almost three times faster than inflation;

- Average premiums for Medicare drug plans with the same deductible and same donut hole coverage in 2006 and 2007 are increasing 11.1% in 2007, even more than the average increase for all plans.

- The premiums for the lowest-priced plan in each state are increasing by over 44% in 2007, over eleven times faster than inflation.

Moreover, in some plans, premiums are going up as actual benefits go down. The result will be that some Medicare beneficiaries will be responsible for even more costs than can be estimated by the comparison of premiums alone.

My staff consulted with Medicare actuaries to determine why the staff's analysis was reaching results that were diametrically opposite of those announced by the Department. What we learned was that the Department included data from Medicare HMOs and other managed care plans in its calculations. These plans, which are also called "Medicare Advantage Plans," are fundamentally different than the stand-alone Medicare drug plans offered through Medicare Part D. These Medicare Advantage plans offer drug coverage only as part of a comprehensive package that requires that beneficiaries opt out of Medicare Part A and Medicare Part B and choose instead to enroll in managed care plans that can limit access to pre-selected doctors and hospitals. These Medicare managed care plans do not offer stand-alone drug coverage; they do not charge separate premiums for drug coverage; and they are heavily subsidized by the federal taxpayer. According to the actuaries, if the Department had limited its analysis to the stand-alone Medicare drug plans offered under Medicare Part D, which are the plans available to seniors enrolled in traditional Medicare, the Department's own analysis would have shown significantly higher premiums for drug coverage in 2007.

In other words, the numbers the Department reported were reached by lumping the ***actual*** premiums charged by the new Medicare drug plans together with ***artificially estimated*** prices of drug coverage in Medicare HMOs, prices and coverage that cannot be obtained by the nearly 90% of seniors who choose to stay in the traditional Medicare program. Combining the actual premiums for drug plans with these estimates in managed care plans is mixing "apples" and "oranges" to produce an average price of "fruit." It is not merely confusing arithmetic; it is deceptive advertising.

Enrollment-Weighted Analysis of Medicare Drug Plan Premiums

Following the release of the Medicare plan premium data by your Department, my staff conducted a detailed analysis of changes in drug plan premiums in the upcoming year. The analysis was based upon publicly released data on drug plan enrollment and data on 2006 and 2007 premiums and plan structures.[1]

First, the staff calculated the average premiums for all Medicare Prescription Drug Plans (PDPs) that were offered in 2006 and will again be offered in 2007. This analysis was done on an enrollment-weighted basis, which is the same methodology used by the Department.[2] The analysis showed that average premiums for Medicare drug plans will increase from $25.69 per month in 2006 to $29.09 per month in 2007. This is an increase of 10.8%, which is almost three times the annual inflation rate.

This premium increase will have significant impacts on seniors. There are 16.5 million Medicare beneficiaries enrolled in stand-alone Medicare drug plans in 2006. HHS data indicate that 15.1 million of these beneficiaries will have the option of remaining in the same plan. Of these beneficiaries, 11.6 million (77%) will face increased premiums next year if they remain in the same plan. Cumulatively, the premiums for these 11.6 million beneficiaries will increase by $734 million in 2007.[3]

Some Medicare beneficiaries (23%) will, indeed, pay lower premiums in 2007 than 2006. But even when the savings these beneficiaries will realize are taken into account, the net increase in overall premiums paid by Medicare beneficiaries, assuming no changes in plan enrollment, will be $650 million in 2007.

The six largest providers of Medicare drug plans in 2006 are United Healthcare, Humana, Wellpoint, Member Health, WellCare, and Coventry Health Care. Combined, these companies provide coverage for over 11 million Medicare beneficiaries. Five of these six providers will increase premiums in 2007. United Healthcare, which offers the AARP plans and other Medicare plans, will increase premiums by an average of 9.5% in 2007. Humana, which offered

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[1] CMS, *Landscape of Local Plans State by State Breakdown, 2006 (Nov. 2005);* CMS, *Landscape of Local Plans State by State Breakdown, 2007* (Sept. 2006). CMS, *Medicare Advantage, Cost, PACE, Demo, and Prescription Drug Plan Organizations — Annual Report by Plan* (July 2006).

[2] This approach assumes that each plan retains the same enrollment in 2007 that it currently has in 2006. Telephone conversation between Democratic Staff, House Committee on Government Reform, and Office of the Medicare Actuary (Oct. 5, 2006).

[3] These calculations include beneficiaries who pay all of their own premiums, as well as dual-eligible or low-income beneficiaries whose premiums are paid for by government subsidies.

the lowest priced plan in many states in 2006, will increase premiums by an average of almost 50% in 2006.

In some cases, popular plans are both cutting benefits and increasing premiums. One example of this is the Humana PDP Complete plan, which had over 400,000 enrollees in 2006. In 2006, this plan had no deductible and covered both brand name and generic drugs in the donut hole. In 2007, the plan will eliminate coverage for brand name drugs in the donut hole. Despite this benefit cut, the plan will increase premiums by almost $25 per beneficiary, from an average of $57.82 per month to an average of $80.43 per month.

Changes in Premiums Among Plans with the Same Coverage Levels

Second, the staff examined whether the increase in plan premiums could be explained by changes in plan benefits. Plans that improve benefits, such as by reducing deductibles or increasing coverage in the donut hole, could be expected to increase premiums, while plans that reduce benefits could be expected to lower premiums. To conduct an analysis that excludes premium changes caused by changes in benefits, the staff compared the premiums of all Medicare drug plans that will offer the same benefits in 2007 that they are offering in 2006.[4]

Prescription drug plans providing coverage to over 13 million beneficiaries will have the same deductible and donut hole coverage in 2007 as they do in 2006. For these plans, on an enrollment-weighted basis, the average monthly premium will increase by 11.1%, from $24.03 to $26.70. This premium increase is even larger than the average increase across all Medicare drug plans.

Changes in Premiums in Low-Priced Plans

Third, the staff examined changes in premiums for the lowest-priced Medicare drug plans in each state. This analysis showed that the seniors who will be hardest hit by the premium increase will be those that choose the plan that offers the lowest premium in their state.

In 2006, the average cost of the lowest-priced plan in each state is $9.46. In 2007, the average cost of the lowest-priced plan in each state will increase to $13.58. This is an increase of 44%, over ten times higher than the inflation rate.

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[4] In this analysis, plans were considered to offer the same benefit in 2006 and 2007 if (1) their deductibles were the same in 2006 as in 2007, or were set each year at the statutorily defined standard levels of $250 in 2006 and $265 in 2007; and (2) they offered the same coverage in the donut hole. Detailed information on potential changes in copays, formularies, prior approval limitations, and quantity restrictions is not available at this time and could not be taken into account in the analysis.

In many states, the premium increase will be even more rapid. This year, Medicare drug coverage is available in six states (Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wyoming) for as little as $1.87 per month. In 2007, the lowest available monthly drug coverage premium in these states will be $10.60 per month, nearly a six-fold increase. In six other states, premiums for the lowest-priced plan will more than double.[5] Overall, the cost of the least expensive Medicare drug plan will increase in 42 of the 50 states, plus the District of Columbia.

Flaws in the HHS Analysis

The Department of Health and Human Services released its analysis of 2007 Medicare drug plan premiums on September 29, 2006. The HHS analysis made a number of claims about the drug plans. The most important claim was that for the average senior, drug plan premiums would not increase in 2007.

My staff consulted with Medicare actuaries about the HHS analysis. We learned that the HHS analysis included data from both Medicare Prescription Drug Plans and Medicare HMOs and managed care plans, sometimes called "Medicare Advantage" plans. Unlike the Medicare drug plans available for people in traditional Medicare, the Medicare HMOs offer drug coverage only as part of a comprehensive package that require that beneficiaries opt out of traditional Medicare (Medicare Part A and Medicare Part B) and enroll instead in managed care plans, which may require beneficiaries "to see doctors that belong to the plan or go to certain hospitals to get services."[6] Many of these plans offered drug coverage to seniors at no additional charge before the Medicare drug program took effect. They do not charge beneficiaries separate premiums for drug coverage.[7] Nearly 90% of Medicare beneficiaries have elected to remain in traditional Medicare and have not signed up for Medicare HMOs. These beneficiaries cannot obtain drug coverage through the Medicare HMOs unless they abandon traditional Medicare.

The managed care plans are also heavily subsidized by the federal taxpayer. On average, federal taxpayers pay Medicare Advantage plans 111% of the costs traditional Medicare would

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[5] These states are Idaho (110% increase), New Jersey (130% increase), New York (132% increase), Oregon (116% increase), Utah (110% increase), and Washington (116% increase).

[6] CMS, *Medicare Advantage Plans* (2006) (online at www.medicare.gov/Choices/Advantage.asp)

[7] HHS posts estimates of the amount of the total premium for Medicare Advantage plans that is attributable to providing prescription drug coverage. CMS, *Medicare Drug Plan Finder* (2006) (online at www.medicare.gov). Beneficiaries do not, however, have the option of dropping or paying separately for drug coverage if they enroll in Medicare Advantage plans, making the posted figures essentially artificial estimates.

incur to provide in-patient and out-patient health coverage.[8] On an annual basis, this subsidy costs taxpayers an additional $2.7 billion, a subsidy of over $500 per beneficiary.[9]

The inclusion of data from the subsidized Medicare Advantage plans distorted the HHS analysis. According to the Medicare actuaries, the HHS analysis would have shown higher average premiums for 2007 for Medicare drug plans if the analysis had been limited to Medicare drug plans rather than also including Medicare Advantage plans.[10]

Conclusion

The data released by the Department presents a false picture of the changes in Medicare drug premiums. The release of this misleading data and the failure to disclose significant price increases does not reflect favorably on the Department. There can be no justification for providing inaccurate information about Medicare premiums to seniors and the public.

Regrettably, this is not the first time that the Department has misinformed the public about fundamental facts about the Medicare drug program. When Congress was debating the legislation that created the new Medicare drug program, Department officials told the public that the program would cost $400 billion over ten years. At the time, Department actuaries were estimating that the true cost of the program would be more than $500 billion, over $100 billion higher than the Department informed Congress and the public.[11]

I request that you immediately revise the Department's analysis of Medicare drug plan premiums to correct its errors. In addition, I request that you provide the following documents to me:

(1) Any analyses conducted by the Office of the Medicare Actuary of 2007 drug plan premiums or cost estimates of the drug coverage of Medicare Advantage plans;

(2) Any internal documents or other communications relating to these analyses and the public release of information on the plan premiums or cost estimates;

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[8] Medpac, *Medicare Advantage Benchmarks and Payments Compared With Average Medicare Fee-for-Service Spending* (2005).

[9] The Commonwealth Foundation, *The Cost of Privatization: Extra Payments to Medicare Advantage Plans — 2005 Update* (2005).

[10] Telephone conversation, *supra* note 2.

[11] See, e.g., Letter from Reps. Henry A. Waxman, John D. Dingell, and Charles B. Rangel to the Honorable Tommy Thompson (Feb. 3, 2004).

(3) Any communications between the Department, the White House, or other agencies relating to this analysis.

I request that you provide me with this information by October 26, 2006.

Sincerely,

Henry A. Waxman
Ranking Minority Member