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## United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, DC 20510-6400

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March 11, 2005

Dr. Mark McClellan  
Administrator  
Centers for Medicare and Medicaid Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Dr. McClellan:

Thank you for testifying before the Senate Aging Committee about implementation of the Medicare Modernization Act, and more specifically the transition of the dual eligible population into the new Medicare drug benefit. This issue is of critical importance to us and we appreciate your willingness to work with the Committee to identify potential areas of concern and develop solutions.

As we discussed during last week's hearing, successfully transitioning the dual eligible population from their present Medicaid drug benefit into the new Medicare drug benefit on January 1, 2006, poses a number of significant challenges. We hope to work with you over the coming months to address these challenges so that America's most vulnerable citizens are able to receive the appropriate medications in a timely manner without any disruption.

Following your testimony we heard from a panel of experts who presently serve dual eligibles under the current Medicaid program. They raised a number of troubling issues that could hinder the transition of this population into the Medicare drug benefit, interrupt treatment regimens and impact the overall quality of care. As you begin the final steps of implementation, we would like you to consider the attached recommendations. In considering these recommendations, we would like you to explain how the Centers for Medicare and Medicaid Services (CMS) plans to address the issues and whether the offered solutions are going to be utilized. If CMS decides not to implement the recommendations, we would like you to explain the rationale behind those decisions, and the specific steps you have taken to remedy these issues. To ensure the Committee has adequate time to respond, we would like your response with 30 days.

Thank you again for your willingness to work with us as we all strive to successfully implement the Medicare prescription drug benefit.

Warmest Regards,



Gordon H. Smith  
Chairman



Herb Kohl  
Ranking Member

Enclosure

## List of Recommendations

- 1) **Require Plans to Cover Existing Drugs During Transition to New Drug Plans** – To ensure dual eligibles who take prescription drugs transition into the new Medicare prescription drug program without incident the prescription drug plans (PDPs) should be required to cover prescribed drugs for the first six months to ensure that beneficiaries have an acceptable amount of time to consult with their physicians about their medication and if appropriate transition to new prescription drug.
- 2) **Coverage of Prohibited Drugs for Institutional Populations** – The Medicare Modernization Act (MMA) prohibits Medicare to cover certain classes of drugs, including over-the-counter (OTC) drugs, benzodiazepines (used for the treatment of anxiety disorders), barbiturates (used for the treatment of some seizure disorders) and drugs for weight management. Given the necessity of these drugs in an institutional setting to maintain the health of beneficiaries, we recommend CMS work with states, PDPs and the long term care industry to develop a solution that will ensure coverage of these drugs.
- 3) **Coverage of Drugs During Appeals Process** – Given the nature of the dual eligible population, most are elderly or disabled and have extremely low incomes, PDPs should be required to cover the beneficiary's prescription drugs during the appeals process to ensure continuity of care and speedy resolution of the issue.
- 4) **Ensuring Dual Eligibles Living in Assisted Living Settings Receive Proper Care** – To ensure that all dual eligibles receive the same level of benefit and quality of care, assisted living facilities should be treated like nursing homes for purposes of delivering the Medicare drug benefit.