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July 20, 2012

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Sebelius:

As you may know, the Government Accountability Office (GAO) recently declared that the Department of Health and Human Services (HHS) exceeded its legal authority in implementing the Medicare Advantage quality bonus demonstration program (MA QBP).¹

The MA QBP, as calculated by the HHS Actuaries, will increase spending by \$8.3 billion over the next decade and, as estimated previously by GAO,² will provide bonuses to plans offering coverage to 90 percent of MA enrollees. In its March 21, 2012, letter to Senate Finance Ranking Member Orrin Hatch, GAO noted that the size of the QBP “dwarfs all other Medicare demonstrations.”

In addition to the serious concerns about the size of the QBP, both the GAO and the independent Medicare Payment Advisory Commission³ expressed concerns about the design of the demonstration. In fact, GAO stated that the demonstration “precludes a creditable evaluation of its effectiveness” in achieving its goal. As a result of these and other concerns, GAO ultimately concluded, “the Secretary of HHS should cancel the MA Quality Bonus Payment Demonstration.”

¹ <http://www.gao.gov/assets/600/592303.pdf>

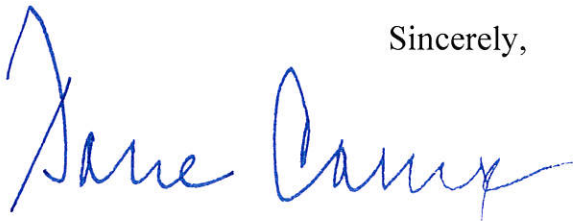
² <http://gao.gov/products/GAO-12-409R>

³ www.medpac.gov/documents/01062011_MA_COMMENT.pdf

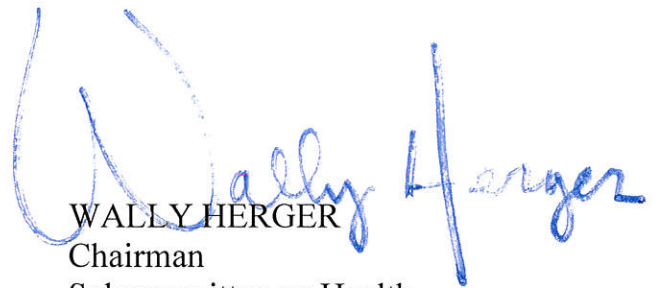
With its most recent report, GAO has determined HHS exceeded its legal authority to implement this demonstration, which calls into question all activities surrounding the development of the MA QBP. As such, I request that by August 3, 2012 you provide all records relating to the creation, development, and implementation of all iterations of the MA QBP. See attached Definition of Terms. This includes, but is not limited to, communications with the Actuaries' office, the Office of Management and Budget, the White House, the Democratic National Committee, the Democratic Congressional Campaign Committee, the Democratic Senatorial Campaign Committee and Obama for America.

If you have any questions, please contact Dan Elling of the Committee staff at (202) 225-3943.

Sincerely,



DAVE CAMP
Chairman



WALLY HERGER
Chairman
Subcommittee on Health

Enclosure

DEFINITIONS OF TERMS

1. The term "record" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record, including (but not limited to) the following IRS information systems: Audit Information Management System (AIMS) information, Examination Returns Control System (ERCS) entries, Integrated Data Retrieval System (IDRS) entries, Automated Collection System (ACS) entries, Transcript Delivery System (TDS) requests, for the five taxpayers and donee organizations currently under gift tax examination. A draft or non-identical copy is a separate record within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The term "relating" with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.