

Congress of the United States

Washington, DC 20515

September 30, 2009

Ms. Charlene Frizzera
Acting Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Acting Administrator Frizzera:

We are writing to express our opposition to the recent gag order the Centers for Medicare and Medicaid Services (CMS) has placed on all Medicare Advantage plans relating to factual information about how pending health reform legislation may negatively affect their beneficiaries' access and coverage. American seniors deserve to know how their coverage would be affected by the plans being promoted by the President and Congress.

CMS's letter to Humana instituting the gag order stated "CMS is concerned that, among other things, this information is misleading and confusing to beneficiaries..." However, the information presented by Humana to beneficiaries is not misleading; in fact CBO affirmed that millions of seniors could lose benefits or have their premium costs go up, thus limiting access. Humana in its communications to beneficiaries wrote:

Leading health reform proposals being considered in Washington, D.C., this summer include billions in Medicare Advantage funding cuts, as well as spending reductions to original Medicare and Medicaid. While these programs need to be made more efficient, if the proposed funding cut levels become law, millions of seniors and disabled individuals could lose many of the important benefits and services that make Medicare Advantage health plans so valuable.

We are concerned that CMS is misusing its regulatory powers to influence the debate, and we believe it is not their proper role to limit freedom of speech by silencing companies who have opposing views to the current administration.

Curiously, the lobbying activities of the AARP, which sponsors Medicare Advantage and Medigap plans, and has been vocally *supportive* of pending health reform legislation, appear to have been overlooked by CMS. AARP stated on its website that it is a "myth" that "health care reform will hurt Medicare," while it is a "fact" that "none of the health care reform proposals being considered by Congress will cut Medicare benefits or increase your out-of-pocket costs." We believe this to be inaccurate; however we trust seniors to be able to determine who is providing them with the most trustworthy information. If CMS were to apply the same standards, taking into account CBO's analysis, AARP's statement would surely qualify as "misleading and confusing".

Therefore, we respectfully request that the CMS gag order be rescinded on any communication related to pending health legislation in Congress. Furthermore, we request that CMS release all communications between the Agency and AARP since the beginning of this calendar year.

We appreciate your attention to this issue and look forward to your prompt response.

Yours truly,