

**Congress of the United States**  
**Washington, DC 20515**

October 13, 2020

The Honorable Gene L. Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
441 G Street NW  
Washington, DC 20548

Dear Comptroller General Dodaro:

We request that the Government Accountability Office (GAO) conduct a review of the Trump Administration's reported plans to send Medicare beneficiaries a prescription drug card for use towards copayments.<sup>1</sup> We do not believe that section 402 of the Social Security Amendments of 1967 (section 402) provides the Administration authority to proceed with this drug card demonstration. We are further concerned about the legality and propriety of these actions, particularly in light of recent press reports indicating that the timing of this project is being driven by the upcoming presidential election.<sup>2</sup> Accordingly, we respectfully request an expedited review of this matter.

As detailed in our October 13 letter to the Secretary of Health and Human Services (HHS), the Centers for Medicare & Medicaid Services (CMS) is reportedly planning to send 39 million Medicare beneficiaries prescription drug discount cards branded with the President's name that are paid for through the Medicare Trust Fund.<sup>3</sup> Reports indicate that this program is being authorized as a demonstration project pursuant to section 402.<sup>4</sup> According to reports, the plans for this demonstration are being led by CMS Administrator Seema Verma and White House Chief of Staff Mark Meadows, both of whom are reportedly pushing career officials to finalize the plans before the November 3 election.<sup>5</sup> The Administration is also reportedly planning to send letters – possibly from President Trump personally – to 39 million Medicare beneficiaries as early as this week to tout the cards, at a cost of \$19 million in taxpayer funds for mailing and processing the letters.<sup>6</sup> A copy of our October 13 letter to the HHS Secretary is enclosed.

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<sup>1</sup> See, e.g., *Trump Says He's Sending Seniors \$200 Drug Coupons*, Politico (Sept. 24, 2020).

<sup>2</sup> See, e.g., *Verma, Meadows push to finalize \$200 drug-card plan for seniors by Election Day*, Politico (Oct. 8, 2020).

<sup>3</sup> Letter from Rep. Richard Neal, Chairman, House Committee on Ways and Means, Rep. Frank Pallone, Jr., Chairman, House Committee on Energy and Commerce, and Sen. Ron Wyden, Ranking Member, Senate Committee on Finance, to Secretary Alex M. Azar II, U.S. Department of Health and Human Services (Oct. 13, 2020).

<sup>4</sup> See note 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

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Given the unusual nature of these taxpayer-funded payments to Medicare beneficiaries, we are concerned that the demonstration fails to comply with relevant federal laws and regulations, including the requirements of section 402. For these reasons, we request that GAO examine the Trump Administration's planned demonstration project regarding prescription drug copayment cards to Medicare beneficiaries (the "demonstration"), including but not limited to the following issues:

1. Is the demonstration, as designed, within the Secretary's authority under section 402?
2. Does the demonstration meet the statutory tests under section 402? What tests must demonstrations executed under this section meet to be considered legally valid?
3. Does the demonstration comply with all relevant federal laws and regulations related to the proper use of federal funds, including the Medicare Trust Fund?
4. Will the demonstration, as designed, allow CMS to determine whether the discount card has the effect of increasing the efficiency and economy of Medicare services?
5. Has HHS followed all applicable procedural requirements in developing and carrying out the demonstration, including but not limited to all applicable requirements of the Administrative Procedure Act?

Should you have questions, please contact the Majority staff of the House Committee on Ways and Means at (202) 225-3625, the Majority staff of the House Energy and Commerce Committee at (202) 225-2927, and the Minority staff of the Senate Finance Committee at (202) 224-4515. We appreciate your prompt attention to these matters.

Sincerely,



Frank Pallone, Jr.  
Chairman  
House Committee on Energy and  
Commerce



Richard E. Neal  
Chairman  
House Committee on Ways and  
Means



Ron Wyden  
Ranking Member  
Senate Committee on Finance