

Congress of the United States

Washington, DC 20515

May 21, 2014

The Honorable Marilyn Tavenner
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Administrator Tavenner:

We are seeking information about CMS activity related to some states' backlog of Medicaid applications following recent comments made by Health and Human Services (HHS) Secretary Kathleen Sebelius during her testimony before the Senate Finance Committee regarding the President's FY2015 Budget on April 10, 2014.

Today the Centers for Medicare & Medicaid (CMS) is overseeing an unprecedented expansion of the Medicaid program under the Patient Protection and Affordable Care Act (PPACA). Under the law, states have the option to expand their Medicaid program to a new population: able-bodied adults without children with income up to 138% of the federal poverty level. This is estimated to add 13 million additional Medicaid enrollees. The Congressional Budget Office (CBO) projects that, under current law, Medicaid spending will double over the coming decade, from \$265 billion in 2013, to \$554 billion in 2023.

At the Senate Finance Committee hearing, Secretary Sebelius was asked by a senator about the extensive backlogs of Medicaid applications that some states are experiencing due to the continued problems with the federal health care website, HealthCare.gov. The senator explained that some states are forced to input applicants' information by hand while thousands of applicants wait for the backlog to be resolved. Secretary Sebelius was asked what steps will be taken to address the current backlog, and to prevent more from happening in the future applications. Secretary Sebelius replied:

"We are actually kind of ramping up the pressure on states and will look at potentially some administrative reductions in payment if people don't pick up this pace because having a backlog that is not being processed in a timely fashion is just keeping way too many people from the health care that they are entitled to."¹

Secretary Sebelius's response seems to suggest that CMS may be in the process of pursuing punitive payment actions against states in spite of – and perhaps even due to – their good-faith efforts to cope with information technology problems resulting from HealthCare.gov. States should not be forced to pay for individuals who are ultimately not eligible for the program.

We believe it would be inappropriate for CMS to reduce payments to states that may be experiencing a backlog of applications due to the troubles with HealthCare.gov. Such an approach would violate the very nature of a federal-state partnership. Moreover, it could contradict previous CMS statements about how the administration of the expansion program would not otherwise unduly impact a state's ability to participate in other parts of the Medicaid program.ⁱⁱ

Given the human and financial impact of the Medicaid program, it is critical that Congress have a full and complete understanding of CMS's administration of the program. Accordingly, we respectfully request your response to the following questions:

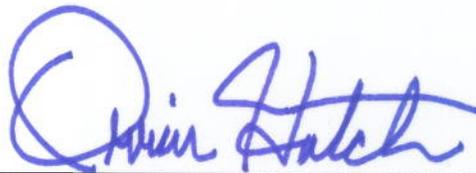
- 1) Is CMS considering or pursuing administrative reductions in payments to states because of state backlogs in reviewing pending applications?
- 2) If CMS is considering payment reductions, please explain:
 - a. Would these punitive actions against states apply to:
 - i. all states;
 - ii. only states that have expanded their Medicaid program; or
 - iii. only states that have *not* expanded their Medicaid program?
 - b. What is CMS's method for determining the scope of the payment reductions?
 - c. What are the possible metrics and timeframe states would be expected to meet to avoid such reductions?
- 3) When will CMS ensure that HealthCare.gov sends states accurate, complete data on applicants who are deemed eligible for Medicaid, in a manner that meets states' needs?

If you have any questions regarding this request, please have your staff contact Josh Trent with the House Energy and Commerce Committee at (202) 225-2927, Kim Brandt with the Senate Finance Committee at (202) 224-4515, or Alicia Hennie with the Senate Health, Education, Labor, and Pensions Committee at (202) 224-6770. Thank you for your consideration of these important questions.

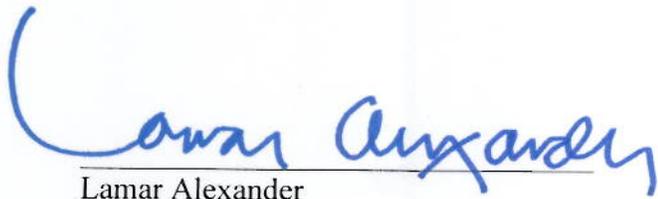
Sincerely,



Fred Upton
Chairman
United States House of Representatives
Committee on Energy and Commerce



Orrin Hatch
Ranking Member
United States Senate
Committee on Finance



Lamar Alexander
Ranking Member
United States Senate
Committee on Health, Education, Labor and
Pensions

¹ <http://www.finance.senate.gov/hearings/hearing?id=6a3ceb43-5056-a032-5205-9dd8aa057bc>

² <http://www.craigslist.com/article/20130903/NEWS/130909972/medicaid-expansion-will-be-delayed-until-at-least-march>