

STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene  
201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

March 26, 2009

The Honorable Henry A. Waxman  
Chairman  
House Energy and Commerce Committee  
2125 Rayburn House Office Bldg.  
Washington, DC 20515-6115

The Honorable Joe Barton  
Ranking Member  
House Energy and Commerce Committee  
2125 Rayburn House Office Bldg.  
Washington, DC 20515-6115

Dear Chairman Waxman and Congressman Barton:

I am writing to communicate the Maryland Medicaid program's strong support of H.R. 904, the Medicaid Prescription Drug Rebate Equalization Act of 2009. This legislation would allow Medicaid managed care organizations (MCOs) to receive the same rebates from drug manufacturers that states' fee-for-service Medicaid programs currently receive.

The rebate program was created by OBRA 1990 and requires drug manufacturers that participate in a state's Medicaid program to enter into a rebate agreement with the Department of Health and Human Services in order for states to receive federal funding for outpatient drugs prescribed to Medicaid enrollees. These rebates are only available for fee-for-service Medicaid pharmacy services, not for drugs provided through MCOs. At the time of the rebate program's enactment Medicaid MCOs served only a small percentage of Medicaid beneficiaries nationwide, so excluding MCOs from the rebate provision was not a significant issue.

Today, however, a majority of Medicaid beneficiaries nationally are enrolled in managed care. Prohibiting MCOs from receiving the rebates that a state would receive for the same individuals if they were not in an MCO creates a dilemma for states. It has been demonstrated that MCOs can more efficiently manage the appropriate use of drugs than Medicaid fee-for-service. Nonetheless, because of the increasing amount of rebates states are entitled to receive when the services are provided on a fee-for-service basis, many states are carving prescription drugs out of the MCOs. Allowing Medicaid MCOs to receive Medicaid rebates would allow states (and the federal government) to benefit from both the reduced cost of drugs and the MCOs' superior management of utilization, the best of both worlds.

Maryland's HealthChoice Section 1115 managed care demonstration program was implemented in 1997. Under this program, nearly 80 percent of Maryland's Medicaid population is enrolled in MCOs. Since that time, the program has been successful in improving access to care while controlling costs. This has allowed the State to expand the program to reach underserved populations. Since 2002, annual enrollment has increased by nearly 5 percent per

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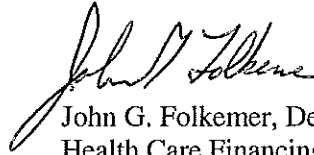
Web Site: [www.dhmh.state.md.us](http://www.dhmh.state.md.us)



year. Therefore, enactment of this legislation would be particularly beneficial to Maryland, producing an annual savings of approximately \$35 to \$40 million in State and federal Medicaid expenditures.

Thank you for your consideration of this information. If you have questions or need more information about Maryland's programs, please do not hesitate to contact me at (410) 767-5807.

Sincerely,

A handwritten signature in cursive script, appearing to read "John G. Folkemer".

John G. Folkemer, Deputy Secretary  
Health Care Financing

cc: The Honorable Bart Stupak  
Dana Thompson  
John Colmers  
Anne Hubbard  
Athos Alexandrou