

United States Senate

WASHINGTON, DC 20510

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BUDGET

June 10, 2009

The Honorable Max Baucus
Chairman
Senate Committee on Finance

The Honorable Charles Grassley
Ranking Member
Senate Committee on Finance

Dear Chairman Baucus and Senator Grassley:

As the Senate Committee on Finance begins its work on comprehensive health reform legislation, I urge you to include an extension of the Medicaid drug rebate program to managed care plans (MCOs). This extension, which is outlined in S. 547, the Drug Rebate Equalization Act of 2009 (DRE), is of critical importance to my home state of Oregon, where nearly 80 percent of our Medicaid enrollees participate in managed care plans.

As you know under current law in the fee-for-service (FFS) portion of the Medicaid program, drug manufacturers must enter into rebate agreements with the Secretary of HHS to have their products covered. Under the FFS system, drug manufacturers pay states rebates for Medicaid drug purchases. These agreements are entered into for the purpose of ensuring that Medicaid, a public payor, pays the lowest possible price for drugs. However, the rebate requirement does not apply to drugs purchased by health plans serving Medicaid beneficiaries in managed care. Managed care plans, which serve 45 percent of all Medicaid beneficiaries across the United States, cannot access the same discounts through the Federal drug rebate program due to an out of date provision in OBRA of 1990, which put the rebates in place.

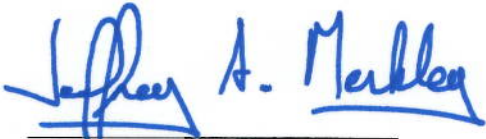
Managed care plans serving the Medicaid program typically receive no rebate on generic drugs and only one-third of the rebate states receive for brand-name drugs provided by Medicaid fee-for-service programs. Therefore, states often pay more for individual prescription drugs for these Medicaid enrollees than for beneficiaries in FFS Medicaid – raising costs for federal and state governments. However, even with this price disadvantage, the total cost of prescription drugs for managed care plans is often less on a per member per month basis because the plans promote greater generics use and drug-utilization management strategies. Unfortunately, many states are considering carving prescription drugs out from health plans for the sole purpose of obtaining the rebate – thereby undermining plans' ability to maintain a comprehensive care management program that includes prescription drugs. A policy under consideration by the Senate Committee on Finance to increase the drug rebate from 15.1 percent to as much as 23.1 percent without extending the provision to managed care plans would intensify pressure for states to carve drugs out of Medicaid managed care, simply to access the rebate on the FFS side.

Extending drug rebates to managed health plans as well as FSS would provide significant cost savings to both federal and state governments. In fact, CBO estimates that this extension would save state and federal governments \$11 billion over 10 years. According to a Lewin Group analysis, my home state of Oregon would likely save \$16 million in 2009 alone – a significant savings at this time of budgetary shortfalls. In addition to providing cost savings, extending drug rebates will eliminate the carve-out incentive and ensure that health plans serving vulnerable Americans can maintain a comprehensive care coordination system for their members. Such a change will not reduce benefits or harm the Medicaid program or beneficiaries in any way.

President Obama has expressed his support for extending drug rebates on behalf of managed care plans. Similarly, the National Governors Association, the National Association of State Medicaid Directors, the Partnership for Medicaid, and the Medicaid health plan industry have also endorsed adopting this policy change.

I believe that this extension, which has broad support, represents a common sense approach to realizing real cost savings as we work to enact major health care reform. I urge its adoption in the Finance Committee bill. Thank you for considering this important request.

Sincerely,



Jeff Merkley
United States Senator