



National Association of State Medicaid Directors

an affiliate of the American Public Human Services Association

June 16, 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 National Association of State Medicaid Directors (NASMD) 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. Due to 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.

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The Honorable Joe Barton, Ranking Member

Thank you for your consideration of this information. If you have questions or need more information, please do not hesitate to contact me at (202) 682-0100 x299.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Clemency Kohler".

Ann Clemency Kohler
NASMD Director

cc: Cindy Mann
Jackie Garner