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November 13, 2006

Leslie V. Norwalk, Esq.
Deputy Administrator
Centers for Medicare and Medicaid Services
7500 Security Blvd.
Baltimore, MD 21244

Dear Ms. Norwalk:

As you know, at least one million low-income people with Medicare will face new barriers on January 1, 2007 that are likely to prevent them from obtaining needed medicines under Part D. However, the Centers for Medicare & Medicaid Services (CMS) can at least mitigate these dangers for many of the most impoverished and frail Americans by immediately taking a few administrative actions. We urge you to take these steps to avoid a repeat of the chaos at the pharmacy counter and the widespread denial by Part D private plans of needed drugs that accompanied the launch of the Part D benefit last year.

The problems fall into two broad categories.

Around 630,000 individuals who were deemed eligible in 2006 for the Part D Low Income Subsidy, the so-called Extra Help program, are being dropped from the Extra Help rolls for 2007. The vast majority of these individuals are poor enough to qualify for Extra Help, but it is likely that most will not apply in time to receive the help they need in January. Instead, they will go from paying between \$1 and \$5 for their prescriptions in December, to paying 100 percent of the cost of their prescriptions until they exhaust a \$265 deductible in January 2007. Few of these poor men and women have the ability to pay these costs and will face an abrupt disruption of their access to needed prescription medicine.

The second group of people who face transition problems in January are those who are being reassigned to a new Part D plan. By CMS estimates, some 288,000 low-income individuals are being randomly assigned to a new Part D plan, without regard to coverage of their drug regimens, because their current plan no longer qualifies for a full premium subsidy under the Extra Help program. In addition, hundreds of thousands of Extra Help recipients are being assigned to new drug plans offered by the same company.

Under the reassignment process, many low-income people with Medicare will be enrolled in plans that deny or restrict coverage for the drugs they take. Individuals who successfully appealed for coverage from their 2006 plan or who switched medications to comply with their 2006 plan's formulary will face a new set of restrictions imposed by the plan they are assigned for 2007.

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CMS should:

- **Require that all Part D plans implement a transition policy for individuals dropped from the Extra Help rolls in January.** Part D plans should continue to charge the low copayments for Extra Help recipients until these individuals have been successfully re-enrolled in Extra Help. CMS has suggested that plans “may” want to institute such a grace period. This is insufficient, since there is no evidence that plans will follow this suggestion. In addition, the grace period recommended by CMS would only apply to people who could prove they have reapplied for Extra Help. It provides no safety net for individuals, likely those least able to navigate the application process on their own, who have not applied for Extra Help by January.
- **Require that all Part D plans ensure the reassignment process does not result in more restrictive coverage for low-income individuals in 2007.** Drug regimens that were covered by the plan assigned for 2006 should be exempted from any formulary restrictions imposed by the plan assigned for 2007. All exceptions and appeals granted in 2006 should carry over into 2007, regardless of whether there is a change of plan, unless the drug is medically contraindicated.
- **Assure states that maintain a safety net for low-income citizens put at risk by the transition that they will be reimbursed through Medicaid for necessary drug outlays.** This will encourage states to maintain or reinstate the safety nets that proved crucial during the early months of 2006.

You will recall that your predecessor, Mark McClellan, failed to heed repeated warnings of the problems expected when 6 million impoverished individuals were abruptly cut off from Medicaid coverage in 2005 and randomly assigned into a Part D plan in 2006. The results—thousands of Americans denied needed medicine and 37 state governments forced to launch emergency rescue programs—are a matter of record. While the number of individuals expected to face problems in the 2006-2007 transition is smaller, the health consequences of interrupted drug regimens remain equally dire for the individuals involved.

We urge you to act now in the interest of public health, and stand ready to assist CMS to take the necessary steps to protect the lives and health of nearly a million older and disabled American in need.

Sincerely,



Robert M. Hayes