

September 25, 2009

The Honorable Max Baucus
Chair
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Grassley:

It has come to our attention certain insurance companies that offer Medicare Advantage plans have been contacting policyholders in an apparent attempt to alarm senior citizens about federal health reform efforts. The Centers for Medicare and Medicaid Services (CMS) has indicated these contacts may violate federal law and should be stopped.

State insurance regulators take scare tactics directed at senior citizens very seriously. We join CMS in demanding these contacts be halted. To the extent misleading communications may be in violation of state laws and regulations, and to the extent state insurance agents and brokers may be participating in these communications or insurance companies are contacting non-Medicare Advantage policyholders, state regulators will remain vigilant and take appropriate action.

State insurance commissioners have written and testified on numerous occasions about the deplorable marketing and sales abuses facing Medicare beneficiaries we have witnessed first-hand in the Medicare Advantage marketplace. State regulators believe these troublesome practices are directly tied to excess payments made to Medicare Advantage plans, and support changes made to federal law that would reign in these abuses. Under the current federal pre-emption, it is unclear what action, if any, states could take against misleading communications made by Medicare Advantage plans. Therefore, in addition to changes to payments to Medicare Advantage plans, we continue to urge you to restore state insurance regulatory authority over Medicare private plans.

We look forward to continuing to work in partnership with you to protect senior citizens and other insurance consumers.

Sincerely,



Roger A. Sevigny
Commissioner of Insurance
State of New Hampshire
NAIC President



Sandy Praeger
Commissioner of Insurance
State of Kansas
Chair, Health Insurance and
Managed Care (B) Committee

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