

# United States Senate

WASHINGTON, DC 20510

September 20, 2007

The Honorable Max Baucus  
Chairman  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

The Honorable Charles Grassley  
Ranking Minority Member  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

Dear Chairman Baucus and Ranking Member Grassley:

We are writing to express our strong opposition to the recently proposed regulatory action by the Center for Medicare and Medicaid Services (CMS) that drastically cuts Medicaid funding by reducing school-based and rehabilitative services for children with disabilities. Therefore, we strongly urge you to address our concerns with these policies either by including Sec. 814 of the House CHAMP Act (H.R. 3162) in the final SCHIP conference agreement, or in another legislative vehicle this year.

Recent data about the Medicaid rehabilitative services option illustrates the potential impact of these unilateral CMS actions on our nation's most vulnerable and needy children. An August 2007 study published by the Kaiser Family Foundation found that 47 states provide community-based care through the rehabilitative option to 1.46 million Medicaid beneficiaries, including hundreds of thousands of children with disabilities. Seventy-three percent of recipients have mental health diagnoses – consisting of debilitating mental illnesses such as schizophrenia or bipolar disorder. The remaining 27 percent of beneficiaries under the option include children and adults with developmental disabilities and persons living with cancer, heart disease, diabetes and HIV/AIDS.

Because this state option is such an important link to the community for America's most vulnerable children, we were alarmed by a CMS Notice of Proposed Rule Making (72 Fed. Reg. 45201) that prohibits people with developmental disabilities from participating in the program at all. The NPRM also proposes an ill-defined "intrinsic element" standard that provides the agency with unprecedented discretion to deny reimbursement for such essential services as community skills training, day programs, and employment related services supervised by health professionals.

The NPRM also scales back rehabilitative services provided to children who are Medicaid-eligible in foster care, and children with disabilities participating in the Individuals with Disabilities Education Improvement Act (IDEA). In addition, CMS proposes the elimination of a congressionally mandated protection that authorized 19 states to provide day habilitation services to children with disabilities under the rehabilitation option.

Many of the policy decisions in these proposed rules have no statutory basis whatsoever in Title XIX. In fact, Congress actually rejected the "intrinsic element" standard for the rehabilitative services option during deliberation of the Deficit Reduction Act in 2005.

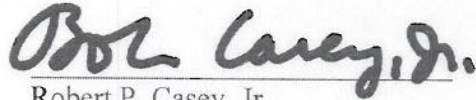
As you know, by contrast Section 814 of the House CHAMP Act prohibits CMS from promulgating new rules relative to both rehabilitative and school-based services for one year. This one-year moratorium on the implementation of these rules preserves the Finance Committee's jurisdiction to engage in a thoughtful consideration of the rules and their impact on the provision of services to millions of children with mental illnesses and developmental disabilities. Given the relatively low cost of the moratorium, \$100M over five years, we believe that retaining Section 814 in the CHIP compromise bill comports with the primary purpose of CHIP to ensure that low-income children receive the health care services necessary to maintain their health and grow into productive adults.

We strongly urge you to include Section 814 of the House CHAMP bill (H.R. 3162) in the final SCHIP conference report, or in another appropriate legislative vehicle this year. Thank you for your attention to this important matter.

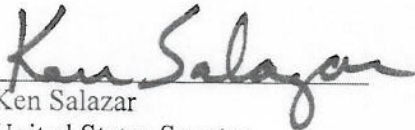
Sincerely,



Bernard Sanders  
United States Senator



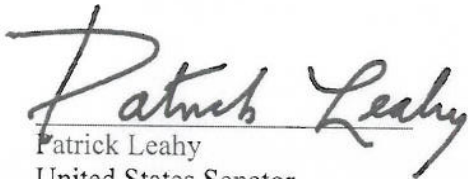
Robert P. Casey, Jr.  
United States Senator



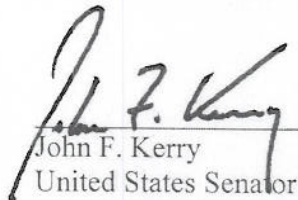
Ken Salazar  
United States Senator



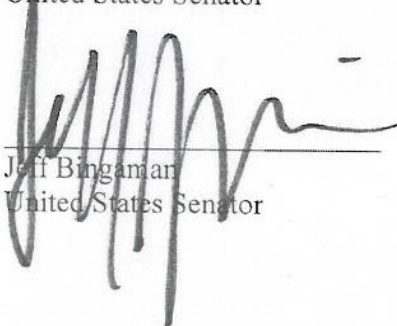
Debbie Stabenow  
United States Senator



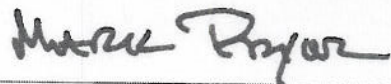
Patrick Leahy  
United States Senator



John F. Kerry  
United States Senator



Jeff Bingaman  
United States Senator



Mark L. Pryor  
United States Senator

*Rich Durbin*

Richard Durbin  
United States Senator

*Ron Wyden*

Ron Wyden  
United States Senator

*Barbara Boxer*

Barbara Boxer  
United States Senator

*Blanche R. Lincoln*

Blanche Lincoln  
United States Senator

*Chris Dodd*

*Tom Harkin*

Tom Harkin  
United States Senator

*Carl Levin*

Carl Levin  
United States Senator

*Tim Johnson*

Tim Johnson  
United States Senator

*Joe Lieberman*

Joseph Lieberman  
United States Senator

*Barack Obama*

Barack Obama  
United States Senator

*Chuck Schumer*

Charles Schumer  
United States Senator

*Jack Reed*

*Hillary Rodham Clinton*

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Hillary Rodham Clinton  
United States Senator

ADDENDUM TO LETTER SENT SEPTEMBER 21, 2007



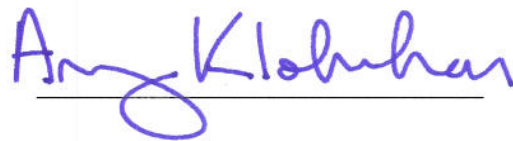
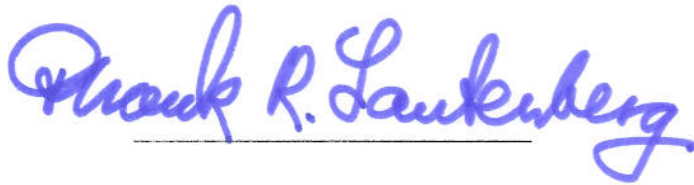
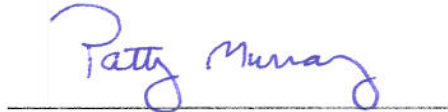
Benjamin L. Cardin  
United States Senator



Sheldon Whitehouse  
United States Senator



Mary L. Landrieu  
United States Senator



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