



For Immediate Release
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**BAUCUS WANTS MORE INFORMATION ON CMS STRATEGY
TO MONITOR MARKETING OF PRIVATE MEDICARE PLANS**

*Finance Chairman has questions about agency oversight of private fee-for-service plans as
marketing resumes*

Washington, DC – U.S. Senate Finance Committee Chairman Max Baucus (D- Mont.) sent a letter this week to Kerry Weems, the Acting Administrator of the Centers for Medicare and Medicaid Services (CMS), questioning how the agency plans to oversee and monitor the marketing practices of Medicare Advantage plans and private fee-for-service plans in particular. This letter follows a Monday announcement by CMS that it has approved the resumption of marketing by the seven largest private fee-for service Medicare plans. In June 2007, the plans agreed to a marketing ban in an effort to stop inappropriate marketing practices that misrepresented the private fee-for-service plans to the potential harm of Medicare beneficiaries. The ban allowed CMS to review the marketing infrastructure of the plans and gather details on the practices of insurers who sell these Medicare plans directly to seniors. It also gave CMS time to determine whether the plans are able to meet the 2008 marketing standards. Today, Baucus asked CMS what ongoing plans it had put in place to avoid inappropriate marketing of private fee-for-service plans in the future.

“I’m pleased that CMS has pledged more oversight and enforcement of the marketing of these private-fee-for-service Medicare plans. I intend to make sure that CMS fulfills its commitment to regulating insurers who sell directly to America’s seniors,” said Baucus. **“The recent unscrupulous tactics by some MA plans have led me to be skeptical about how well this market works for seniors, and whether CMS is sufficiently protecting seniors in the market. I will continue to stand up for a Medicare program that delivers quality care and excellent value for America’s seniors and for all taxpayers.”**

The text of Baucus’s Tuesday letter follows here.

September 25, 2007

Via Electronic Transmission

The Honorable Kerry Weems
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Acting Administrator Weems:

On August 1, 2007, I wrote your Agency, to gain further insight into the voluntary suspension of marketing activities by Private Fee For Service plans. On September 7, 2007, CMS provided a detailed and thoughtful response to that letter. Yesterday, CMS issued a press release announcing the lifting of those suspensions for all seven plans that participated.

The CMS press release says: “Overseeing the marketing activities of Medicare Advantage plans to ensure beneficiaries have access to the health care services they need, and are not discriminated against in any way is one of my top priorities,” said CMS Acting Administrator Kerry Weems. “CMS conducted a comprehensive review of these seven sponsors and found vast improvements to their internal controls and oversight processes consistent with regulations and guidance for Medicare private-fee-for-service plans. But we’re not stopping there. Medicare’s procedures to continuously monitor all plans marketing, including the activities of their agents and brokers, are now in place.”

I was particularly pleased to read that monitoring Medicare Advantage plans is one of your top priorities. I look forward to working with you to ensure that MA marketing in general, and Private Fee For Service (PFFS) marketing specifically, are closely monitored by CMS. To gain a better understanding of your ongoing monitoring and compliance activities I pose the following questions:

- How does CMS plan to implement the continuous monitoring of all plan marketing including the activities of their agents and brokers? Please provide a copy of CMS monitoring plan and describe in detail how CMS will implement the plan.
- How and when will the CMS dedicated monitoring team and the rapid response plan be implemented? Please describe how they are part of or differ from the CMS plan to continuously monitor all plans marketing?
- Please describe the partnership CMS has formed with the State Insurance Commissioners and how this partnership works with CMS monitoring activities.
- A monitoring plan is only as good as an agency’s willingness to take action against entities when they are out of compliance. How will CMS ensure compliance with the new requirements? Please describe the CMS compliance plan in detail.

The seven plans that participated in the suspension were required to create an outreach and education program to ensure that providers are aware of PFFS plans and payment provisions. In addition, CMS required plans to encourage providers to provide services to PFFS enrollees. Given the importance of these two requirements, I would like to know:

- Did CMS provide model language for plans to use to encourage participation? Specifically, how are plans to encourage participation when they don’t have contracts with providers? Please provide examples of how plans are encouraging provider participation that meet CMS criteria.
- What will CMS do as part of its continuous monitoring to ensure that these provider outreach programs remain in place and are effective?

Thank you in advance for your cooperation. Please provide a written response to my questions no later than October 9, 2007. Should you have any questions regarding this matter, please contact [staff].

Sincerely,

Max Baucus
Chairman

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