

United States Senate

WASHINGTON, DC 20510

March 17, 2011

The Honorable Timothy F. Geithner
Secretary of the Treasury
Department of Treasury
Washington, DC 20220

The Honorable Hilda L. Solis
Secretary of Labor
Department of Labor
Washington, DC 20210

The Honorable Kathleen Sebelius
Secretary of Health and Human Services
Department of Health and Human Services
Washington, DC 20201

The Honorable Michael J. Astrue
Commissioner of Social Security
Social Security Administration
Baltimore, MD 21235

Charles Blahous, Ph.D.
Public Trustee

Robert Reischauer, Ph.D.
Public Trustee

Dear Honorable Trustees:

We strongly reject the notion that the spending reductions from and the payroll tax increases to the Medicare Hospital Insurance (HI) trust fund enacted in the new health care law (the Patient Protection and Affordable Care Act, or PPACA) can both improve the government's ability to pay future Medicare benefits *and* finance new entitlement spending outside of Medicare. While we recognize your specific charge as a Medicare trustee allows you to assess the financial status of the program by focusing narrowly on the flow of dollars through the trust fund, Congress and the American people often look at Medicare from a broader budgetary perspective. **Therefore, we ask the Trustees to provide an alternative projection in the 2011 Medicare Trustees Report estimating the date of exhaustion for the HI trust fund assuming that the estimated Medicare HI savings under PPACA are not set aside to pay future Medicare benefits but instead are used to finance new spending (outside of Medicare) in the health care law.**

According to the Centers for Medicare and Medicaid Services (CMS), PPACA contained \$413 billion in Medicare savings to the HI trust fund between fiscal years 2010-2019. Proponents of the new law claim that these savings will be used to extend the solvency of the HI trust fund, while at the same time financing the new health insurance entitlement program. However, both the Congressional Budget Office (CBO) and the independent Office of the Actuary at CMS said the Medicare HI savings can be used by the government *either* to make Medicare more solvent *or* to offset new spending in the health care law, but that the same dollars *cannot* be used to achieve both.

A memorandum issued by the CMS Actuary on April 22, 2010 regarding the impact of health care law on the HI trust fund concluded that:

In practice, the improved HI financing cannot be simultaneously used to finance other Federal outlays (such as coverage expansions under the PPACA) and to extend the trust fund, despite the appearance of this result from the respective accounting conventions.

An earlier letter from CBO dated December 23, 2009 on the same issue explained:

The key point is that savings to the HI trust fund under PPACA would be received by the government only once, so they cannot be set aside to pay for future Medicare spending and, at the same time, pay for current spending on the other parts of the legislation or on other programs... To describe the full amount of HI trust fund savings as both improving the government's ability to pay future Medicare benefits and financing new spending outside of Medicare would essentially double-count a large share of those savings and thus overstate the improvement in the government's fiscal position.

We are writing now so that the Trustees Report for 2011 will include alternative estimates that directly acknowledge and address this critical accounting issue, unlike last year's report. We believe our request is fully consistent with the intent of the Social Security Act and its provisions governing annual reports to Congress. In the past, the CMS Actuary has published alternative scenarios to supplement the annual Trustees Report, which provides precedent for complying with our request.

Congress and the American people deserve an accurate assessment of Medicare's finances and its impact on the federal budget, after taking into account gimmicks like the double-counting of Medicare savings under the new law. We are confident that you agree with the basic principle guiding our request—that the same dollar cannot be spent twice. We look forward to a timely response.

Sincerely,



JEFF SESSIONS
United States Senator



ORRIN HATCH
United States Senator

cc: Donald M. Berwick, M.D.
Administrator
Centers for Medicare & Medicaid Services
Secretary, Boards of Trustee