Congress of the United States
Washington, DC 20515

January 26, 2006

The Honorable J. Dennis Hastert
Speaker
U.S. House of Representatives
H-232 Capitol
Washington, DC 20515

Dear Speaker Hastert:

The implementation of the new Medicare prescription drug program (Part D) has become a public health crisis. As you know, there has been a great deal of confusion and difficulty surrounding its implementation. Many beneficiaries have left the pharmacy empty-handed after being told that their drugs were not covered or their enrollment could not be confirmed. Others have been forced to pay unaffordable amounts to obtain necessary medication.

While many important steps should be taken to address problems in the program, we are writing to request that the House immediately consider legislation explicitly directing the federal government to protect beneficiaries and reimburse states that have taken emergency measures to ensure Medicare beneficiaries get their prescriptions.

To date, 26 states have enacted emergency measures to ensure that no low-income senior citizen or person with a disability leaves a drugstore without their medication. We are encouraged by HHS Secretary Mike Leavitt and CMS Administrator Mark McClellan's recent announcement that the agency will work under an existing demonstration authority to reimburse the states for these costs. However, we have been unable to learn the details of their proposal and remain concerned about several components. Specifically, the (1) arbitrary expiration of the proposed assistance to states on February 15th; (2) requirement for states to "pay and chase" rather than having CMS pay states directly and reconcile with plans; and (3) administration through a waiver process that may not be available to all states.

The problems beneficiaries are facing are unlikely to be resolved over the next few weeks. Indeed, transition issues are not temporary, as each month brings new Medicare beneficiaries, including some who will be coming on or off Medicaid, depending on their situations. As such, it would be wise for Congress to provide guidance and assurances with respect to the future.

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When the House reconvenes, a number of members intend to promptly introduce legislation that would direct HHS to fully reimburse states that have emergency assistance programs. We urge you to schedule a vote on one of these bills if the process outlined by the Administration does not provide timely and full assistance to the states.

Thank you for your immediate attention to this matter. We look forward to your response.

Sincerely,

John D. Dingell
Ranking Member
Committee on Energy and Commerce

Henry A. Waxman
Ranking Member
Committee on Government Reform

Sherrod Brown
Ranking Member, Subcommittee on Health
Committee on Energy and Commerce

Pete Stark
Ranking Member, Subcommittee on Health
Committee on Ways and Means

Rosa DeLauro
Ranking Member, Subcommittee on Agriculture
Committee on Appropriations

Rahm Emanuel
Member of Congress

Benjamin Cardin
Member of Congress

Frank Pallone
Member of Congress