United States Senate

WASHINGTON, DC 20510

April 10, 2006

The Honorable Michael O. Leavitt
Secretary of Health and Human Services
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Leavitt:

As you know, during the first three months of the new Medicare drug benefit many beneficiaries were unable to get their prescription drugs due to errors made by the Center for Medicare and Medicaid Services (CMS). As a result of CMS's failures, 46 states were forced to step in and pay for prescriptions on an emergency basis.

Shortly after Congress threatened to enact legislation requiring CMS to repay these funds to the states, your agency created a temporary waiver reimbursement program to cover expenses incurred by the states due to CMS's errors. While we were initially encouraged by CMS's actions, we are concerned that three months after your pledge, no state has actually been reimbursed for expenses associated with the emergency coverage programs.

Essentially, these states have loaned Medicare Part D money – taking on an expense that private health plans were already paid to cover. Most states are already facing tight fiscal constraints, and these payments to bail out CMS have only worsened many states' financial picture.

In light of this grave situation we urge CMS to begin making the promised payments to the states immediately. Please inform us of the date you will begin releasing funds to the states or whether you need specific legislative authority to carry out the reimbursement.

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

Sincerely,

Frank R. Lautenberg

Robert Menendez

John F. Kerry

Debbie Stabenow

Ted Kennedy

Hillary Rodham Clinton

Mark Dayton

Tim Johnson

Jack Reed

Barbara Boxer

Jim Jeffords

Chuck Schumer

Chris Dodd