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May 17, 2006

The Honorable Mark McClellan, M.D., Ph.D.
Administrator
Centers for Medicare and Medicaid Services
200 Independence Ave, SW
Washington, DC 20201

Mark

Dear Dr. McClellan:

I am writing in response to your letter dated May 3, 2006. While I appreciate your response to my January 26 query on the marketing activities of Part D plan sponsors, your response continues to dodge the issue of effective CMS oversight of plan sponsors. In addition, I remain concerned that your marketing guidelines do not set a sufficiently high standard. For example, CMS should expressly prohibit "incentives for marketing representatives to mislead beneficiaries, cherry pick certain beneficiaries, or churn beneficiaries between plans," not merely suggest that plans "avoid" such activities.

The "numerous corrective action plans and compliance warning letters" issued in 2005 are irrelevant to issues facing Part D beneficiaries in 2006. Your letter discusses the need for beneficiaries to have access to unbiased information, but you refuse to release to Congress and the public your own data about plan sponsor performance (see attached letter to Secretary Leavitt). Beneficiaries deserve to know if plans are following the guidelines you claim to vigorously enforce.

I repeat my earlier request for the immediate release of CMS data on plan call centers. While this info can't help those who signed up in the final weeks before the May 15 deadline, it can help those who will be changing plans in November based in part on the customer service offered by plan sponsors. I also ask for an immediate response to the following questions:

1) How many corrective action plans, compliance warning letters, civil monetary penalties and/or intermediate sanctions have been levied against Part D plan sponsors in 2006?
2) Will Congress and Medicare beneficiaries be given access to information about your past and future compliance and enforcement activities against plan sponsors?

I look forward to your prompt response.

Sincerely,

Pete

Pete Stark
Ranking Member
Ways and Means Subcommittee on Health

Enc: