

United States Senate

WASHINGTON, DC 20510

March 31, 2011

Honorable Donald Berwick, MD
Administrator
Centers for Medicare and Medicaid Services
200 Independence Ave, SW
Washington, DC 20201

Dear Dr. Berwick:

In the November 22, 2010 CMS' Notice of Proposed Rulemaking (NPRM)^[1], CMS proposes to implement §3310 of the Affordable Care Act (ACA) by requiring 7-day or less dispensing of branded solid oral dosage forms and liquids. The intent of this provision was to reduce waste in dispensing to long-term care residents under the Medicare drug benefit and to save money for the Medicare program.

This proposed rule requires the return and reporting of unused drugs in order to obtain detail on the extent to which there is wasteful spending in the long-term care setting. However, we are concerned that insufficient data exists to gauge the underlying savings associated with this provision.

Therefore we are requesting objective data that shows how the CMS proposed rule will result in a cost effective method by which to implement this provision. If the data available cannot predict a high level of confidence that savings will be achieved we encourage you to engage in a demonstration program to gather data prior to implementation of a final rule.

We share your commitment to the reduction of waste in the Medicare drug program. However, we encourage you to proceed with the best possible evidence that ensures increases in dispensing fees associated with this provision do not outweigh any resulting savings.

Sincerely,


Senator Ron Wyden Senator Debbie Stabenow Senator Benjamin L. Cardin

^[1] Medicare Program: Proposed Changes to the Medicare Advantage and the Medicare Prescription Drug Program for Contract Year 2012 and Other Proposed Changes. Federal Register, November 22, 2010.