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NORTH DAKOTA

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United States Senate

February 8, 2012

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The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

We write today regarding an important issue facing End Stage Renal Disease (ESRD) patients.

More than 30 years ago, Congress established the Medicare ESRD benefit to help ensure ESRD patients could access lifesaving dialysis treatments. Current Medicare Secondary Payer (MSP) rules allow individuals in group plans who become eligible for Medicare as a result of being diagnosed with ESRD to maintain their existing private coverage for a period of up to 30 months.

As you are aware, the Patient Protection and Affordable Care Act (PPACA) created new health insurance exchanges to make it easier for small groups and individuals to compare and purchase high quality, low cost insurance plans. Nothing in PPACA changes the MSP rules for ESRD or creates an exception for plans offered through the new exchanges.

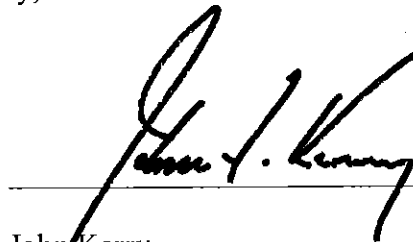
Nonetheless, some ESRD patients have expressed concern that the current application of MSP rules might be changed with respect to plans offered through the exchange. In our view, that would not be consistent with the law or Congressional intent, and we urge you to clarify publicly and officially that your agency will consistently apply the MSP rule to group plans offered both inside and outside the exchange. Doing so will ensure that ESRD patients continue to have access to dialysis treatment, while also upholding the longstanding partnership between private plans and Medicare.

We appreciate your consideration of these concerns.

Sincerely,



Kent Conrad
United States Senate



John Kerry
United States Senate



Ron Wyden
United States Senate



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United States Senate



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United States Senate



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United States Senate



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