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COLLOQUY ON FORMULARIES FOR MEDICARE BENEFICIARIES LIVING WITH HIV/AIDS

Senators Grassley, Baucus, and Feinstein

MRS. FEINSTEIN: I am concerned about the impact the Medicare conference report will have on low-income Medicare beneficiaries who are living with HIV/AIDS. I have heard a lot of opposition to this bill from the HIV/AIDS community. My concern is with their access to drug treatment therapy under the Medicare prescription drug benefit. Is it your understanding that the Medicare conference report will not prevent low-income Medicare beneficiaries who are living with HIV/AIDS from getting all the drugs they need through Medicare Part D?

MR. BAUCUS: That's correct, Senator. One of the things I'm particularly proud about in this bill is the strong beneficiary protections that will ensure that ALL Medicare beneficiaries get access to the appropriate medicine they need. You know, Senator Grassley, that there are certain diseases and conditions -- like AIDS, and epilepsy--where having access to just the right medicine is especially important.

MR. GRASSLEY: I did know that, and I know that certain mental illnesses also fall in that category. This bill contains a number of protections for people who need exactly the right medicine for them.

MRS. FEINSTEIN: Victims of HIV/AIDS are somewhat unique since the treatment for HIV/AIDS varies with the individual. To be clear, no low-income Medicare beneficiaries who have HIV/AIDS will be denied access to the drugs they need in Medicare Part D?

MR. BAUCUS: Exactly. The bill asks the US Pharmacopeia to develop model formularies with therapeutic classes that can't be gamed. Then we require drug plans to offer at least two drugs in each therapeutic class. And for drugs that treat AIDS, epilepsy, or mental illness, we would expect that plans would carry all clinically appropriate drugs.

MR. GRASSLEY: I agree. And I am pleased with the backup protections in this bill. That if a plan doesn't carry or doesn't treat as preferred a drug needed by, say, a person with AIDS, a simple note from a doctor explaining the medical need for that particular drug could get that drug covered.

MRS. FEINSTEIN: Will that apply to all covered drugs required by a person with HIV/AIDS and in all cases?

MR. BAUCUS: That's correct. These beneficiary protections are crucial for these vulnerable Medicare beneficiaries. I'd expect that the Secretary will take into account their special medication needs when he writes regulations on this provision and when he is evaluating plan bids. If a plan can't adequately ensure all of the proper medication for beneficiaries living with HIV/AIDS, epilepsy, and certain mental illnesses, that plan should not be doing business with Medicare.

MR. GRASSLEY: I agree with my good friend.

MRS. FEINSTEIN: I would like to quote from a letter I received from Secretary of Health and Human Services Tommy Thompson, the full text of which I will submit for the record. Secretary Thompson says, "I would not approve a plan for participation in the Part D program if I found that the design of the plan and its benefits, including any formulary and any tiered formulary structure, would substantially discourage enrollment in the plan by any group of individuals. If a plan, however, complies with the USP guidelines then it would be considered to be in compliance with this requirement. Thus, if a plan limited drugs for a group of patients (individuals living with HIV/AIDS) it would not be permitted to participate in Part D." Secretary Thompson goes on to say, "Under the Conference Report, the beneficiary protections in the Medicare drug benefit are more comprehensive than the protections now required of State Medicaid programs. This will ensure access to a wide range of drugs. For example, there are extensive information requirements so that beneficiaries will know the drugs the plan covers before they enroll in the plan. Beneficiaries can also appeal to obtain coverage for a drug that is not on their plan's formulary if the prescribing physician determines that the formulary drug is not as effective for the individual as another drug, or if there are adverse effects. As a result, access to all drugs in a category or class will be available to a beneficiary when needed."

Is this your understanding as well?

MR. BAUCUS: Absolutely.

MR. GRASSLEY: I agree.

MRS. FEINSTEIN: I thank the distinguished Senators from Montana and Iowa and I yield the floor.