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MEMORANDUM

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January 19, 1988

TO: Board of Directors of the  
Association of Federal Health Organizations

FROM: Gordon & Barnett *(G&B)*

RE: Medicare Catastrophic Loss Prevention Legislation

We have attached for your review and comment our draft letter to Senator David Pryor relating to the Association's position on the Medicare catastrophic loss prevention legislation, H.R. 2470. Should you have any comments or suggestions regarding this letter, please contact David Ermer no later than the close of business on Thursday, January 21, 1988. Unless you object, we plan to circulate the final version of this letter to the conferees and Mr. Ed Gleiman on Friday, January 22, 1988.

We also have enclosed for your information a copy of the General Accounting Office's latest report on this legislation.

Thank you for your attention to this matter.

G&B:cpm

Enclosures

DRAFT

DME:cpm AFHO 5/43

January 19, 1988

Honorable David Pryor  
United States Senator  
Chairman, Subcommittee on Federal Services,  
Post Office and Civil Service of the  
Senate Committee on Government Affairs  
SR-264 Russell Senate Office Building  
Washington, D.C. 20510-0402

Dear Senator Pryor:

The Association of Federal Health Organizations ("AFHO") appreciates this opportunity to supplement the record of the September 23, 1987, hearing which the Subcommittee on Federal Services, Post Office and Civil Service held regarding the impact of the Medicare catastrophic loss prevention legislation, H.R. 2470, on federal annuitants. AFHO is a non-profit association of organizations which are carriers of Federal Employees Health Benefit ("FEHB") plans. AFHO's current membership consists of 12 employee organization carriers of FEHB plans and a national association representing approximately 140 health maintenance organizations providing health care to federal employees and annuitants. In combination, AFHO's constituent organizations provide FEHB coverage to more than 3,000,000 federal employees and annuitants and their families, accounting for approximately 25 percent of all persons covered by FEHB plans.

AFHO and its member organizations have been monitoring carefully the course of the Medicare catastrophic loss prevention legislation as it winds its way through Congress. H.R. 2470 as it passed the House on July 22, 1987, mandates that all Medicare participants accept and pay for catastrophic loss prevention coverage which principally would cap out-of-pocket expenses for Medicare covered services at approximately \$1,800.00 annually and would cover 80% of prescription drug expenses over \$500.00 annually. This additional coverage is to be financed by the Medicare beneficiaries themselves through an income based Medicare Part A premium and a supplemental, flat rate Medicare Part B premium.

A number of Senators and Representatives, as well as federal employees organizations and unions, and this Association, recognized that such mandatory coverage would have a significant adverse impact on Medicare eligible federal annuitants for the following reasons:

1. Federal annuitants would have to pay more than their private sector counterparts for such Medicare coverage because the Medicare Part A catastrophic illness premium is tied to taxable income, and federal annuities, unlike Social Security payments, are fully taxed after employee contributions to the Civil Service retirement program have been exhausted in benefit payments.
2. Federal annuitants already have and pay for adequate catastrophic illness coverage under their FEHB plans.

These concerns were aired both before your Subcommittee at the September 23, 1987, hearing and before Congressman Ackerman's Subcommittee on Compensation and Employee Benefits of the House Committee on Post Office and Civil Service at a hearing held on October 7, 1987.

When the Medicare catastrophic loss prevention legislation reached the Senate floor in late October, two floor amendments to S. 1127 (later redesignated H.R. 2470) were adopted for the purpose of remedying these federal annuitants' problems. The Pryor-Domenici-Chiles amendment (No. 1049) (discussed at 133 Cong. Rec. S 15132-38 (Oct. 27, 1987)) altered the basis for calculating the Medicare Part A catastrophic protection premium so as to eliminate the disparity between premiums charged to federal and private sector retirees. The Stevens-Pryor amendment (No. 1050) (discussed at id., pp. S 15138-40) directs the U.S. Office of Personnel Management ("OPM") to study and report to Congress no later than April 1, 1989, on a legislative plan for offering so-called Medigap plans in the FEHB program. Furthermore, the Stevens-Pryor amendment mandates a "flat" premium reduction "figured program-wide" for FEHB plan members with primary Medicare coverage (id., p. S 15, 139 (remarks of Sen. Stevens)) based on "the estimated cost of medical services

and supplies which but for the [new Medicare] catastrophic coverage benefits . . . would have been payable by such [FEHB] plans" (Amendment No. 1050, Section 21(a)(1)).

A related -- and with respect to the FEHB program evidently redundant -- amendment to the Senate bill (No. 1043) (discussed at 133 Cong. Rec. S 15,022-23 (October 23, 1987)) requires all employers including the Federal Government to return to their Medicare eligible retirees, through refunds or additional benefits, any cost savings that accrue to them through duplication of Medicare and employer-sponsored catastrophic loss prevention benefits. This amendment, which Senators Riegle and Grassley introduced, provides in pertinent part, that

. . . if an employer provides health care benefits to an employee or retired former employee (including a federal employee or retired former employee) that are duplicative of new or improved health care benefits provided under this Act or the amendments made by this Act, the employer shall --

(1) provide additional benefits to the employee or retired former employee that are at least equal in value to the duplicative benefits; or

(2) refund to the employee or retired former employee an amount equal to the actuarial present value of the duplicative benefits.

AFHO does <sup>not</sup> comprehend the insistence on coercing federal annuitants to accept and pay for catastrophic illness coverage

*called*

which they already have under their FEHB plans. Under both the Senate and House bills, Medicare catastrophic illness coverage would cap out-of-pocket expenses for Medicare covered charges at approximately \$1,800 annually and would offer some form of prescription drug benefit with a large annual deductible. A recent General Accounting Office report entitled "Medicare Comparison of Catastrophic Health Insurance Proposals -- An Update," pp. 3-4 (HRD-88-19BR, Oct. 16, 1987) warns that

Medigap policies primarily cover only the deductibles and coinsurance for Medicare-covered services rather than expand coverage to other services; therefore, neither they nor S. 1127 would relieve the elderly from out-of-pocket costs for services not covered by Medicare. H.R. 2470 would provide some relief through the added coverage of prescription drugs and in-home personal care.

And finally, according to the Bowen report, for the estimated 7 million beneficiaries who incurred from \$2,000 to \$4,999 in out-of-pocket costs for Medicare-covered services in 1983, 32.4 percent of those costs were for physician charges above the Medicare-approved rate. Similarly, for the estimated 1 million beneficiaries incurring \$5,000 or more in out-of-pocket costs for Medicare-covered services, 21.9 percent of those costs were for physician charges above the Medicare-approved rate. Because of increases in the percentage of physicians accepting the Medicare determination of reasonable charges as payment in full, these percentages of out-of-pocket costs probably have decreased somewhat since 1983. Neither S. 1127 nor H.R. 2470 would relieve Medicare beneficiaries of these charges in excess of Medicare-approved rates by physicians not accepting the Medicare-determined reasonable charge. Although the majority of Medicare beneficiaries have Medigap policies to pay the

coinsurance for part B services, Medigap policies generally will not pay for charges above the Medicare-approved rate.

Contrast this comparatively anemic "catastrophic loss prevention" coverage with that currently available to federal annuitants with Medicare and FEHB plan coverage. Because FEHB plans generally waive their deductibles and co-payments for Medicare covered expenses, such annuitants have 100% coverage of those expenses. They are not at risk for \$1, let alone \$1,800, of acute care medical expenses. Moreover, FEHB plans, unlike Medigap policies, generally offer coverage of significant acute care and long-term expenses which Medicare does not cover such as prescription drugs, dental care, and private duty nursing care. Indeed, all AFHO member sponsored FEHB plans cover these expenses.<sup>1/</sup> Furthermore, FEHB prescription drug benefits generally have no deductible and/or only a very modest co-payment -- especially those plans offering maintenance-type prescription drugs which most often are used by annuitants. Finally, FEHB plans, again unlike Medigap policies, generally cover physicians' charges in excess of the Medicare approved amount, provided, of course, that such charges do not exceed the plan's reasonable and customary fee levels.

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<sup>1/</sup> Admittedly few, if any, group health insurance plans adequately shelter their members from nursing home costs. FEHB plans are no exception. Nevertheless, FEHB plans generally do provide significant coverage of home health care expenses, such as private duty nursing care.

Notwithstanding the adequacy of this current arrangement, the House bill would force all Medicare beneficiaries, including federal annuitants, to pay for overlapping Medicare catastrophic illness coverage. The Senate bill would permit federal annuitants and other Medicare beneficiaries to opt out of such coverage but only by declining Medicare Part B coverage. The Senate bill also attempts to make this Hobson's choice more palatable by temporarily reducing FEHB plan rates for federal annuitants (Stevens-Pryor amendment) or by giving them either premium rebates or additional benefits for one year (Riegle-Grassley amendment).

The Stevens-Pryor and Riegle-Grassley amendments although well intentioned are infeasible for OPM and FEHB plans to administer and simply unfair to federal annuitants. The benefit increase/premium reduction/premium rebate which these amendments mandate wrongly presume that it is possible to estimate the cost of Medicare services and supplies which, but for the new Medicare catastrophic illness benefits, would have been payable under these plans. FEHB plans simply do not keep the statistics necessary to make such calculations. Moreover, no crystal ball exists which accurately can predict how many federal annuitants will drop Medicare Part B coverage if the Senate version of H.R. 2470 is adopted.

Neither the Stevens-Pryor nor Riegle-Grassley amendments will prevent the cost burden of catastrophic loss prevention



coverage from being shifted from the federal government to federal annuitants. Currently, federal annuitants contribute an amount sufficient to cover between 25% and 40% of the premium of FEHB plan which they select,<sup>2/</sup> and postal annuitants contribute less than 10% of such cost. In contrast Medicare beneficiaries are expected to cover the entire cost of their new Medicare catastrophic illness coverage. See GAO Report, supra, pp. 42-44. Indeed, the Administration supports the Senate version of S. 1127 principally because it is self-financing. See "President could sign Senate Version of Catastrophic Care Bill, Bowen Says," 14 Pen. Rptr. (BNA) 1582 (Dec. 7, 1987). In short, even assuming for the sake of argument that FEHB plans accurately can prepare the estimates necessary to make the premium reduction or rebates called for by the Senate bill, federal annuitants will end up paying for the federal government's current share of the cost for providing them with catastrophic illness coverage.<sup>3/</sup>

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<sup>2/</sup> The statement that a 40/60 split between employees and the government contribution toward FEHB plan premiums is an oversimplification. Under 5 U.S.C. § 8906, the Government contribution is equal to 60% of the average premium charged for the high option of the so-called Big Six plans or 75% of the plan's premium rate whichever is less. Thus, in low cost plans, the government contribution is closer to 75% of the plan's premium.

<sup>3/</sup> In this regard, it must be understood that the Government and employee or annuitant necessarily must share any premium reductions or rebates on a pro rata basis.

All of these problems may be avoided simply if Congress would permit federal employees to opt out of Medicare catastrophic illness coverage without penalty. If federal annuitants are not so exempted, they may very well be forced to drop their FEHB plan coverage because of the additional costs involved. This indeed would have catastrophic consequences for federal annuitants because as previously discussed FEHB plans cover significant expenses which Medicare does not cover. Health insurance issues already are sufficiently complicated for all senior citizens. It simply is not necessary or desirable to complicate such matters unnecessarily for federal annuitants.

In sum, successful analysis of this issue can be accomplished only if the catastrophic illness coverage issue is not confused with the more general issue of coordinating Medicare and FEHB benefits. The Stevens-Pryor amendment requires that OPM study and report to Congress on the issue of creating within the FEHB program Medigap plans that comply with the National Association of Insurance Commissioners guidelines regulating such plans. This requirement stems from a concern expressed by certain organizations that federal annuitants with Medicare coverage may be subsidizing costs for other Plan members. Although AFHO has no objection to such a study, Congress must understand that FEHB plans provide insurance benefits on a group basis, and that cost sharing is the very essence of group insurance. Under the FEHB program, federal employees pay either

the rate for self only coverage or self and family coverage. Thus, healthy plan members who submit low dollar or no claims subsidize the cost of insurance for ailing plan members who submit high dollar claims. Establishing different rates for Medicare eligible persons eventually will lead to the establishment of different rates for other classes of persons. Congress thus must realize that such changes will impact most harshly on federal annuitants without Medicare coverage.

AFHO therefore urges Congress to permit federal annuitants to exempt themselves from the proposed Medicare catastrophic illness coverage without penalty at least until Congress receives and acts on the OPM study on creating Medigap plans within the FEHB program. Should Congress decline to adopt AFHO's position, then, at the very least, it should exempt the federal government from the Riegle-Grassley amendments. It simply is illogical to subject the FEHB program to the conflicting requirements of the Stevens-Pryor and Riegle-Grassley amendments.

AFHO appreciates this opportunity to express its vies on this important matter.

Respectfully yours,

Thomas J. Feeney, Jr.  
Chairman

TJF:cpm

Enclosures

cc: All AFHO Board Members  
Gordon and Barnett, AFHO Counsel