Congress of the United States
Washington, DC 20515

March 23, 2012

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health & Human Services
200 Independence Ave., S.W.
Washington, DC 20201-0007

Dear Secretary Sebelius:

We contact you to express concerns about President Obama's Independent Payment Advisory Board and request a timely explanation of your plans to protect seniors' access to care under IPAB's arbitrary Medicare cuts. Despite a prohibition against rationing in the law, we are worried that a failure to define this term broadly enough could ultimately limit seniors' access to needed medical care.

You recently told Congress that IPAB may not "ration" care, while admitting this word remains undefined in the health law. On February 28, you testified before the House Ways and Means Committee, agreeing you would clearly define this term before implementing IPAB. We do not believe you can fix this fatally-flawed provision through regulations.

The Kaiser Family Foundation admits IPAB must issue cuts to meet spending targets "even if evidence of access or quality concerns surfaced." AARP warns IPAB's Medicare cuts "could have a negative impact on access to care." Unfortunately, President Obama's health law only requires IPAB to protect seniors' physician access "to the extent feasible" when meeting mandatory spending targets. Please specify whether or not you intend to prohibit IPAB from pushing Medicare cuts that limit seniors' access to needed care, and describe the scope of your authority to do so under the law.

We believe the law establishing IPAB is fatally flawed for other reasons. Like Medicare's existing physician payment formula, IPAB exists under the flawed assumption that Washington can lower health costs by cutting Medicare provider reimbursements below the cost of providing care. According to the Medicare chief actuary, Medicare physician payments could fall to "less than half of the projected Medicaid rates" under current law. It's misleading to pretend seniors won't face access problems, and that these won't be compounded by IPAB's disproportionate cuts to physicians.

New fast track rules restrict Congressional consideration and debate of IPAB proposals – possibly requiring a vote by a veto-proof majority of Congress to prevent risky cuts made by IPAB or an HHS Secretary. The law also limits the clinical expertise of IPAB, requires no public comment or transparency prior to an IPAB decision and prohibits judicial review of dangerous cuts. Legal experts also call IPAB unconstitutional, describing the IPAB process as an "abdication of what historically has been a congressional responsibility." Please explain

PRINTED ON RECYCLED PAPER

whether you intend to address each of these concerns through regulation and describe the scope of your legal authority to do so.

We appreciate your attention to this matter and look forward to your timely response.

Sincerely,

(LA-07)

(GA-11)

(FL-12)

(TN-01)

(TN-04)

(MI-7)

(OK-01)

(MI-01)

(MN-03)

Jeff Miller

Cathy McMorris Rodgers

J. Randy Forbes

Bill Cassidy

Renee L. Ellmers

Jean Marie Buckle

Na Hayworth

Diane Black

Alan Nunnelee

Bill Huizenga

Tim Griffin

Ken Mart

Larry Bucshon

[illegible]

Blake Farenthold

Devin Nunes

Doug Walden

Bob Goodlatte

Donald Manzullo

Steve Chabot

[illegible]

[illegible]

Thomas Rice

Mike Rogers

[illegible]

[illegible]