United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510–6275

February 23, 2012

David Godfrey
State Medicaid Director
State of Minnesota, Department of Human Services
540 Cedar Street PO Box 64983
St. Paul, MN 55167-0983

Dear Director Godfrey:

In the United States, the federal and state governments spend roughly $300 billion every year on the Medicaid program. Like the Medicare program, Medicaid suffers from systemic weaknesses that lead to fraud, waste, and abuse across the program, resulting in higher costs and less health care to those who are in need. I take seriously my responsibility to ensure that taxpayer dollars are appropriately spent on federal health care programs.

Medicaid is a vital program administered by the states and funded jointly by the federal and state governments. Through this partnership, Medicaid serves the most fragile of populations who depend upon the critical services provided. For many years, states have been allowed to provide services to Medicaid recipients through managed care entities to help control the increasing costs for services. Historically, managed care entities have proven to better coordinate the often complex health care needs of Medicaid beneficiaries.

In order for recipients to receive adequate services from these managed care entities, states must appropriately and correctly reimburse for services provided. Recently, questions have arisen regarding the process states have utilized in determining the appropriate payment to managed care entities by the Medicaid program.

The Medicaid statute 1903(m)(2)(iii) requires that state payments to managed care entities be made on an actuarially sound basis. In 2009, the Government Accountability Office (GAO) was asked to investigate CMS's oversight of the states compliance in meeting the statutory requirement. The GAO found that "CMS has been inconsistent in reviewing states' rate setting for compliance with the Medicaid managed care actuarial soundness requirements, which

specify that rates must be developed in accordance with actuarial principles, appropriate for the population and services, and certified by actuaries.[1]"

In the 18 months since that report was issued, I have seen nothing to convince me CMS or the states have improved in their ability to confirm that managed care entities are appropriately and correctly reimbursing for the services provided. If an entity is paid too little, the access to and quality of care provided to beneficiaries is jeopardized. If an entity is paid too much, scarce Medicaid resources are diverted away from providing services to beneficiaries.

In order to better understand what your state is doing to ensure that resources are being properly spent through managed care entities, please provide the following information:

1. Does your state have an independent audit requirement for managed care entities? If so, under what professional auditing standards must these audits be conducted?

    a) Does the auditor perform a financial audit to validate reported information on medical-loss ratio, administrative costs, profit, and reserves?

    b) Does the auditor perform a performance/compliance audit to validate performance measures and adherence to contractual requirements?

    c) Please provide a copy of the rules and/or regulations that establish this requirement in your state.

    d) Please provide a list of all managed care entities operating in your state, number of times each has been audited, the date of the most recent audit, and a summary of the results.

2. Your state's definition(s), per managed care entity contract language, of allowable medical costs (all items allowable in calculating the medical loss ratio);

3. Your state's definition(s), per managed care entity contract language, of what allowable administrative costs are;

4. An example copy of the reporting document(s) that plans are required to provide your state for reporting on medical costs, administrative costs, and profit;

5. A certification stating whether the actuary performing work for your state is, or is not, also providing services to one or more of your plans;

6. Any guidance document, white-papers, or presentation from CMS with respect to defining medical-loss ratio, administrative costs, profit, and reserves; and

[1] GAO Report: "CMS's Oversight of States' Rate Setting Needs Improvement;" http://www.gao.gov/new.items/d10810.pdf

7. Has your state contacted CMS to gain clarification and guidance on these issues in the past three years? If so, has CMS adequately aided your state?

Thank you for your prompt attention and response to the questions raised in this inquiry. In responding to the aforementioned questions, please repeat each enumerated request followed by your response. Please provide responses to the questions no later than March 16, 2012. Should you have any questions regarding this request, please contact Erika Smith on my staff at 202-224-5225.

Sincerely,

Charles E. Grassley
Ranking Member
Committee on the Judiciary