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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

DANIEL E. SMITH, STAFF DIRECTOR
FRANK J. MACCHIAROLA, REPUBLICAN STAFF DIRECTOR

<http://help.senate.gov>

Via Electronic Transmission

May 19, 2011

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sebelius,

I am writing to inform you that the Administration has failed to submit to the Senate, as required by law, a recent regulation implementing part of the new health care law. As this failure prevents the Senate from considering and debating the merits of this regulation, I request that you take immediate action to formally transmit this rule to the U.S. Senate.

On December 1, 2010, the Department of Health and Human Services published an interim final rule in the Federal Register titled, "Health Insurance Issuers Implementing Medical Loss Ratio (MLR) Requirements Under the Patient Protection and Affordable Care Act." To date, the Senate Parliamentarian has not formally received the rule and therefore has not referred the rule to the Committee of jurisdiction.

This failure on the part of the Administration denies Senators their right to file Resolutions of Disapproval and utilize procedures established under the Congressional Review Act to review new regulations.

It was precisely these types of poorly conceived, overly burdensome regulations that prompted Congress to enact the Congressional Review Act, to allow Congress to review Executive Branch regulations. While Congress is the body that passes laws, it is often the regulations promulgated as a result of a law that provide the details on how the law will be implemented. If the Congressional Review Act is not adhered to at all steps of the process then Congress is deprived of the opportunity to express disapproval of a regulation, and is in effect stripped of a key Congressional authority.

This is especially troubling, since this rule has the potential to eliminate over one million U.S. jobs, undermine efforts to detect and prevent health care fraud, and discourage investments that could improve health care quality and reduce costs.

Every member of the United States Senate deserves the right to introduce Resolutions Disapproving the regulations published by this Administration and your immediate attention to my request is greatly appreciated.

Sincerely,



Michael B. Enzi