

*Administrator*

Washington, DC 20201

OCT 28 2011

The Honorable Herb Kohl  
Chairman, Senate Special Committee on Aging  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter concerning the implementation of the Physician Payments Sunshine Act, which was included in Section 6002 of the Affordable Care Act. I commend your leadership in and commitment to this area. Like you, I believe that once implemented, the requirements of this important Affordable Care Act provision will bring increased transparency to our health care system.

You had inquired about our timing for releasing a proposed rule. We have been working to implement the statutory provision. This January, the President issued Executive Order 13563, which directs all Federal agencies to take steps to reduce regulatory burden. I believe we can implement the statutory goals of Section 6002 while minimizing burden on the regulated parties. In that vein, CMS is carefully reviewing this statutory requirement and working hard to ensure we meet these goals.

I want to highlight that CMS has been actively engaged in stakeholder outreach regarding the implementation of this provision. Immediately upon receiving the delegation of authority from the Secretary for Section 6002, CMS staff began engaging in stakeholder outreach to better understand the complexities involved with implementing this provision. CMS held a special Open Door Forum in March 2011, which had approximately 700 participants. Following the special Open Door Forum, CMS requested written feedback and received 19 written responses. Additionally, in the ensuing months, CMS staff met with 15 external stakeholder groups, including states, advocacy groups, manufacturers, and industry associations to receive feedback on the implementing procedures. In addition, and as required in the statute, CMS staff has been engaged with our colleagues in the HHS Office of Inspector General to gather their input and assistance in developing implementing regulations.

I understand that your staff has already had informal conversations with Agency staff to relay Congressional intent on this provision. I continue to welcome your input as we move forward.

Your dedication to bringing transparency to physician-industry relationships is commendable. I look forward to continuing to work with you on this issue. Please do not hesitate to contact me with additional questions on this matter. I will also provide this response to the cosigner of your letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donald M. Berwick", written over a light blue horizontal line.

Donald M. Berwick, M.D.