



National Association of State Medicaid Directors

an affiliate of the American Public Human Services Association

August 13, 2009

The Honorable Charles B. Rangel  
Chairman, House Ways & Means Committee  
United States House of Representatives  
341 Cannon Office Building  
Washington, DC 20515

RE: H.R. 2849

Dear Chairman Rangel:

On behalf of the National Association of State Medicaid Directors (NASMD) I am writing to urge your support for H.R. 2849, the "Special Disability Workload Liability Resolution Act of 2009". This legislation would be instrumental in resolving the Social Security Administration's (SSA) computer processing glitch which resulted in a failure to identify Supplemental Security Income (SSI) recipients who had become eligible to receive Social Security Disability Insurance (SSDI). SSA is aware of this error and is working to correct the amount owed to the disabled individuals. However, at this time SSA has not determined how they will rectify this liability owed to the states which is why H.R. 2849 is so important to us.

**Background**

SSI provides cash assistance payments to aged, blind, or disabled individuals with limited income and assets. SSDI restores income that is lost when wage-earners can no longer work to support themselves and their dependents due to a disability. Because SSI recipients are allowed to work, some beneficiaries become eligible for SSDI after they have been on SSI for several years. The SSA system checks earnings records against the SSI records to identify individuals who should be receiving SSDI. If the system finds an SSI recipient who is eligible for SSDI, it places a diary on the SSI record. This diary alerts the SSA field office to send a notice to the recipient, asking them to apply for SSDI. As a result of the SSA processing glitch, the diary was never posted to the SSI record of numerous beneficiaries and they were not notified that they needed to apply for SSDI. SSDI beneficiaries automatically become eligible for Medicare after 24 months. If the person is also a Medicaid beneficiary, states will receive notification of Medicare enrollment from SSA through the State Data Exchange (SDX). The states will pay the Medicare Part B premiums for Medicare beneficiaries who have concurrent Medicaid eligibility under a state buy-in agreement.

Thirty-two states and the District of Columbia are "SSI auto-accrete" states that have signed 1634 agreements to accept the SSI determination from SSA as a determination of Medicaid eligibility and an automatic accretion by SSA of these individuals to the state buy-in rolls. The effective date for these individuals is the SSI date of eligibility concurrent with the Part A date of entitlement and States will owe any premiums due retroactive to the effective date. The remaining "SSI alert" states have not signed a 1634 agreement and actively decide if the Medicare beneficiary is also eligible for Medicaid and if they should be enrolled in state buy-in for payment of Medicare Part B premiums. In these States, both the individual and the State have input as to the effective date of Medicare Part B premiums. Due to the retroactive entitlement of these dual eligibles to Medicare, State Medicaid agencies are required to seek recovery of any Medicaid payment made for services and supplies that are also covered under Parts A or B of Medicare.

In summary, SSA is enrolling people retroactively in Medicare Parts A & B and they are retroactively billing the states for the Part B premiums even if the state Medicaid program had previously paid for these individuals' healthcare. In some instances this retroactive billing goes back 10 years or more.

We are hopeful that Congress will vote to approve this bill to ensure a speedy resolution of this matter. As you know, states are facing significant budget constraints and this bill would greatly assist states with their current fiscal crises.

Thank you for your hard work on this issue. Please let me know if I can provide you with any additional information. Should you have any questions please contact me at 202-682-0100 x299.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Clemency Kohler". The signature is fluid and cursive, written over a light blue horizontal line.

Ann Clemency Kohler  
NASMD Director

Cc: Cindy Mann, CMSO