THE WHITE HOUSE

WASHINGTON

November 4, 1999

HEALTH CARE – PROVIDER GIVEBACKS

MEMORANDUM TO THE PRESIDENT

FROM: Chris Jennings

SUBJECT: H.R. 3075, the Medicare Balanced Budget Refinement Act of 1999

CC: John Podesta, Steve Ricchetti, Maria Echaveste, Jack Lew, Gene Sperling, Bruce Reed, Larry Stein, Joel Johnson, and Mary Beth Cahill

Today, the House passed its version of the Medicare provider give-backs legislation by a vote of 388 to 25. It costs $11.8 billion over 5 years. It provides relief for hospitals, nursing homes, home health providers, physicians, therapy providers, and rural health providers. With very few exceptions (such as an unnecessary and ill-advised payment increase for managed care and inadequate and controversial policies regarding teaching hospitals), most of the provisions included are workable with relatively small adjustments.

The primary challenges continue to be the lack of offsets for these new costs, the fact that no resources are being transferred to the Medicare trust fund to avoid a negative impact on the financial health of the Medicare program, and the front-loaded nature of the give-backs. On the last point, like the Senate, about half of the $11.8 billion expenditures in the House bill are spent in the first two years, with most of this in 2001.

Since the Congress has forward-funded so much of its 2000 budget, probably cannot live under the unrealistic appropriations caps, and is considering tax policies that reduce revenue significantly, the availability of on-budget surplus dollars for 2001 is – or is almost – nonexistent. As a consequence, the dollars dedicated to 2001 spending ($4.3 billion in the House and $5.6 billion in the Senate) may need to be pushed into 2002 and beyond so that your FY 2001 budget has resources available for high-priority initiatives. Even though the 5-year total expenditures would likely be the same, this approach would still likely alienate many providers who are expecting administrative and legislative payment increases out of Washington this year and next year.

We are assessing whether the Congress feels strongly abut the 2001 spending issue and if the Republican leadership will impose their own fiscal restraints for the early years of its budget. So far, the Congress appears largely unwilling to impose any fiscal restraints (or pay-for requirements) on itself on this issue.

Attached is an OMB letter we sent to the Congress today. As you will note, it does not reference the 2001 issue because we do not want to be the only ones raising it. We will keep you apprised of developments.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 5, 1999

The Honorable Richard A. Gephardt
Democratic Leader
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Leader:

This letter responds to your request on our views of the Balanced Budget Act adjustment bills that are currently being considered in Congress. As you know, the President is committed to moderating policies in the Balanced Budget Act of 1997 that are flawed or have unintended consequences for Medicare beneficiaries and providers. The Administration has taken numerous administrative actions to this end and believes that the Congress should not conclude its first session until necessary legislative changes are made.

Most of the Administration's specific policy suggestions and concerns with the House and Senate bills have been discussed at the staff level, and we will continue that collaboration. I want to take this opportunity to restate our commitment to broader Medicare reform and concern about the potential effect of the adjustment bills on the budget and Medicare trust fund.

The problems caused by the 1997 Balanced Budget Act that we have mutually identified are serious and require immediate action. However, even greater challenges are presented by the demographic and health changes of the 21st century. The doubling of the Medicare population in the next 30 years and advances in medicine will strain Medicare's ability to provide basic health services to seniors and people with disabilities. This is why the President developed a plan to strengthen and modernize Medicare, including adding a long-overdue, voluntary prescription drug benefit. This plan remains one of the Administration's top priorities and we hope to work with you to ensure its passage in 2000.

In the absence of broader reforms, the Administration continues to believe that legislation to correct problems with the Balanced Budget Act policies should be paid for and not undermine the solvency of the Medicare trust fund. The President's Medicare reform plan included a set of proposals to modernize traditional Medicare and reduce costs which would help in this regard. Other offsets, which could include appropriate tax offsets, could also be used. Regardless of the approach, I strongly encourage you to protect the progress we have made in extending the life of the Medicare trust fund and not reverse the gains which we have worked so hard together to achieve.

There are several provisions of the bills that we have identified in staff discussions that could be modified or eliminated. I want to reiterate our concern about a further slow-down of the implementation of the managed care risk adjustment system. The BBA required that payments to managed care plans be risk adjusted. To ease the transition to this system, we proposed a 5-year, gradual phase-in of the risk adjustment system. This phase-in forgoes approximately $4.5 billion in payment reductions that would have occurred if risk adjustment were fully implemented immediately. The Medicare Payment Advisory Commission and other experts support our planned phase-in. These experts also believe that Medicare continues to overpay managed care plan. In light of this, we think that increased payments to managed care plans through this mandated slow-down of risk adjustment are unwarranted at this time.

The Administration would also support the inclusion of language to clarify the intent of Congress for determining aggregate payments to hospitals under OPD PPS. A technical drafting error in the BBA language authorizing the PPS system has produced some confusion over the aggregate payment formula for this system. The enactment of clarifying language on the subject would be most useful in eliminating the confusion caused by this drafting error.

BBA was an historic and major, bipartisan achievement. Because of its magnitude, it is not surprising that there are a number of modifications that we mutually agree are necessary to address its unintended and negative consequences. The Administration looks forward to working with you on these modifications to ensure that Medicare continues to provide high-quality, accessible health care.

Sincerely,

Jacob J. Lew
Director