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The Honorable J. Dennis Hastert  
The Speaker of the House of Representatives  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

We understand that the elements of the House budget reconciliation package will continue to be negotiated over the next several days. I write on behalf of the American Bar Association to urge you to reconsider the significant cuts to Medicaid that were contemplated in Title III of H.R. 4241 as recently approved by the House Budget Committee. These proposed cuts in Medicaid would adversely affect many of our neediest citizens, especially low-income children and their parents, pregnant women, seniors and persons with disabilities and chronic, life-threatening conditions such as HIV/AIDS and cancer. The proposed Medicaid cuts would adversely affect these low-income beneficiaries. These cuts, comprising \$30.1 billion (or two-thirds) of the total projected \$45.3 billion in Medicaid cuts over 10 years, would increase beneficiary cost-sharing, limit access to benefits, and restrict eligibility for long-term care services. We urge the House leadership to reconsider these proposed Medicaid cuts and proposals.

The ABA believes that the Medicaid cut proposals would create unreasonable barriers and burdens on access to care by undermining eligibility and making access to services unaffordable. Numerous studies and reports indicate that increased cost sharing in the form of premiums and copayments for Medicaid beneficiaries will result in lower enrollment and reduced utilization of services for children and adults. While cost sharing in the private insurance model is intended to encourage consumers "to use services prudently," in the Medicaid arena it simply forces low-income individuals to go without necessary medical care.

We also believe that the proposed cuts fail to recognize that many middle-income Americans have no other option than Medicaid for meeting the catastrophic costs of long-term care. Federal and state policy must better define and implement a system that permits this population to share fairly in the cost of long-term care without becoming impoverished.

Unfortunately, the House proposal contains punitive and inefficiently targeted provisions regarding the transfer of assets under Medicaid. Specifically, the asset-transfer provisions impose a penalty period beginning on the date when the

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applicant is otherwise eligible for Medicaid coverage, i.e., when the individual needs long-term care and lacks the income or resources to pay for that care; and it mandates a five-year look-back period for transfers.

We understand the need to prevent individuals from illegally transferring assets in order to improperly qualify for Medicaid benefits. However, these proposals do not accomplish that goal. Instead, they punish people facing an unexpected health care crisis who have helped a laid-off family member make ends meet, provided a down payment for a grandchild's first home or college costs, or helped an elderly sibling or spouse stay in her home. These provisions would have little effect on those who deliberately try to "game the system." Further, the current House provision erroneously claims that hardship waivers will prevent the new rule from keeping seniors from getting the care they need. In practice, these waivers do not work and will leave seniors victimized by unfair rules.

The devastation of three major hurricanes this fall has starkly reminded the nation that there are too many Americans barely surviving near or below the poverty line. The aftermath of these disasters reinforced the need to ensure a health care and public health safety net for those with the fewest resources. Medicaid has been the preeminent program to serve in this capacity.

We believe that this is a time to demonstrate creativity, not parsimony. The ABA encourages state governments to experiment with new and innovative approaches for delivering health and long-term care to economically needy and uninsured populations. However, we oppose structural and financial changes in the Medicaid program that would weaken the current entitlement nature of the program or shared legal obligation of the federal and state governments to provide a comprehensive set of benefits to all individuals who meet eligibility criteria.

Unfortunately, the current House budget reconciliation proposal does not meet this standard, and we urge you to reconsider it.

Sincerely,

A handwritten signature in cursive script that reads "Robert D. Evans".

Robert D. Evans

cc: U.S. House of Representatives Leadership