February 7, 2006

The Honorable Charles E. Grassley
Chair, Committee on Finance
United States Senate
219 Dirksen Office Building
Washington, D.C. 20510-6200

The Honorable Max S. Baucus
Ranking Minority Member
Committee on Finance
United States Senate
219 Dirksen Office Building
Washington, D.C. 20510-6200

Dear Chairman Grassley and Senator Baucus:

I am writing on behalf of the American Bar Association to urge you to schedule oversight hearings on the issue of Section 1115 waivers under the Medicaid program.

As you know, the Medicaid program provides vital health and long-term care services to millions of children, families, seniors and persons with disabilities. Medicaid has significantly reduced the number of people without health insurance, substantially facilitated access to medical care and long-term care, and improved health for large numbers of low-income people. We share the concerns of a wide range of organizations, beneficiaries and stakeholders that significant and complex policy changes are being made to the Medicaid program through the Section 1115 waiver process with little opportunity for legislative oversight and public input. The ABA’s policy position on Medicaid reform is attached for your information. The policy supports new and innovative approaches to delivering health and long-term care but stresses retention of the entitlement nature of the program as well as a meaningful voice for consumers in any restructuring process.

In return for its substantial financial commitment, the federal government has established national coverage standards, and given states additional options to tailor coverage to the needs of their residents. Section 1115 waivers have long been a tool to give states additional flexibility. Recently, however, the Centers for Medicare and Medicaid Services has approved far-reaching waivers that depart from critical federal coverage standards, with minimal opportunity for public input. In October,
for example, CMS approved an unprecedented, broad waiver for the state of Florida’s Medicaid program in just sixteen days. Subsequently, the states of Kentucky and South Carolina have submitted major waiver proposals, and we are concerned that they may be moving on a fast track as well.

These waivers establish national precedents that go well beyond the reach of past Section1115 waivers. With meaningful public input and scrutiny by Congress, these waivers may or may not be judged as in keeping with the statutory mandates. It is the process that we are most concerned with. As such, we would like to work with you over the coming months to ensure that these major changes in the way Medicaid serves low-income people are subject to appropriate public input and Congressional oversight, and that the ramifications of these changes for beneficiaries and the people and providers who serve them are well understood.

We very much appreciate your leadership on this important issue and look forward to working with you.

Sincerely,

Robert D. Evans

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