



May 31, 2011

Federal Trade Commission
Office of the Secretary
Room H-113 (Annex W)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

**Re: Proposed Statement of Antitrust Enforcement Policy Regarding
ACOs Participating in the Medicare Shared Savings Program,
Matter V100017**

Dear Commissioner Leibowitz:

AARP appreciates the opportunity to submit comments on the proposed statement of antitrust enforcement policy regarding Accountable Care Organizations participating in the Medicare shared savings program ("Proposed Statement"). We are pleased to see the Federal Trade Commission (FTC) and Department of Justice (DOJ) Antitrust Division working in close collaboration with the Centers for Medicare and Medicaid Services (CMS) as they promulgate regulations related to Accountable Care Organizations (ACOs).

On behalf of our millions of Americans aged 50 and older, AARP applauds the development of ACOs for the Medicare population. We believe they represent an important opportunity to improve quality while controlling costs. However, we remain mindful that the incentives ACOs have to control spending in Medicare could lead them to shift costs to the commercial marketplace, causing premium increases for people insured in the private sector. In light of the continued escalation of health care costs, premium increases could make health care coverage more expensive for millions of Americans.

We believe the Proposed Statement seeks to strike a balance in encouraging the development of ACOs for the Medicare population while at the same time preserving competition for those in the commercial market. We support the agencies' plan to expedite and streamline reviews and their intent not to create an overly burdensome process. Because we do not know yet how these entities will impact the health care marketplace and the potential adverse impact on premiums is so great, we strongly encourage both the FTC and DOJ Antitrust Division to remain vigilant in their monitoring of the effect of Medicare ACOs on the commercial marketplace. We believe that the development of a database that will enable the agencies to regularly examine claims

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and other data to determine the effects of the ACO program will be essential. AARP strongly urges the agencies to immediately establish the capability to collect all commercial data, including data from private payers and other data it deems necessary, to conduct comprehensive oversight.

AARP urges the FTC and DOJ to continue to watch closely market aggregation, the potential for price fixing and other anti-competitive behavior. Ensuring that health care is affordable is a key AARP objective and we are prepared to work with the agencies to ensure that this goal can be achieved. In its proposed regulations on ACOs, CMS would require that entities who wish to become ACOs file a notice with the FTC and DOJ at least 90 days prior to filing their application with CMS. AARP supports the cooperation between these agencies and urges the FTC and DOJ to allocate adequate resources in order to conduct their analysis in a timely manner.

Thank you for the opportunity to provide comments on the Proposed Statement of Antitrust Enforcement Policy regarding ACOs in the Medicare Shared Savings Program. If you have any questions, please contact Anna Schwamlein Howard on our Government Affairs staff at (202) 434-3770.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a long horizontal flourish extending to the right.

David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs