601 E Street, NW
Washington, DC 20049

T 202-434-2277
1-888-OUR-AARP
1-888-687-2277
TTY 1-877-434-7598
www.aarp.org

November 30, 2012

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Joseph Pitts
Chairman
Subcommittee on Health
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Michael C. Burgess
Vice Chairman
Subcommittee on Health
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton, Chairman Stearns, Chairman Pitts, and Vice Chairman Burgess:

I am writing in further response to your letter of September 20, 2012. I have previously responded to the first two questions in your letter: on October 11, 2012, I explained in detail how AARP came to support comprehensive health care reform legislation, including the Affordable Care Act ("ACA"), and on October 26, 2012, I addressed concerns raised in your letter about whether the Board was aware of the views of AARP members regarding health care reform.

In this letter, I will address your final two questions. First, you asked if our Board of Directors was informed of the actions taken by AARP staff to help pass health care reform legislation. Second, you asked if AARP was concerned about Medicare savings in the ACA.

I. The AARP Board of Directors Was Advised of the AARP's Efforts to Support Enactment of Comprehensive Health Care Reform Legislation.

I have served on the all-volunteer AARP Board of Directors for the last six years, a period that includes the entire discussion around the Affordable Care Act. I continue to serve on the Board this year in my current capacity as AARP's volunteer president. Thus, I can answer your question from first-hand experience.

Like the boards of most large institutions, the AARP Board does not usually involve itself in day-to-day operations. We set the mission and priorities of AARP, but we leave it to our experienced and professional staff to implement the detailed tactics and activities for achieving those goals, subject to board oversight.

Given the historic nature of health care reform, the Board was more involved in the process than usual. Our staff worked diligently on this issue and was eager to respond to the Board's questions about their efforts. Staff kept us well informed of AARP's substantial advocacy efforts designed to ensure enactment of the ACA. We were provided with detailed information about the various methods staff used to encourage Members of Congress to support comprehensive reform, including meetings with members and their staff and paid advertising thanking many of those who ultimately supported reform.

AARP's strength lies in our grassroots advocacy, and our staff kept us informed about the various methods used to rally member support for reform, including direct mail, email, telephone town halls, robo-calls and live events, as well as paid and earned media. These efforts resulted in more than 1.3 million AARP members and activists taking actions in support of health care reform over the course of the 2009-10 legislative debate. Staff also updated us on efforts to inform members about health care reform, including 100 telephone town halls held by AARP featuring elected officials from both parties that helped inform 580,000 members.

II. AARP Long Supported Measures to Strengthen Medicare's Solvency such as Reducing Excess Payments for Private Insurance Plans, and Publicly Expressed Concern about Proposals to Reduce Payments to certain Health Care Providers.

The final concern in your letter addresses ACA's capacity to bend the Medicare cost curve. It's important to note at the outset that the ACA extended the life of the Medicare Trust Fund by seven years. It also protected guaranteed benefits for beneficiaries, while eliminating beneficiary cost-sharing for preventive services and closing the coverage gap ("doughnut hole") in the Medicare prescription drug benefit. Most Medicare savings in the ACA result from two approaches: 1) leveling the playing field between traditional Medicare and Medicare Advantage; and 2) slowing the rate of growth in payments to hospitals, nursing homes and other health care providers.

A. Leveling the Playing Field between Traditional Medicare and Medicare Advantage.

Private health plans, now commonly referred to as "Part C" or "Medicare Advantage" plans, have been available as an alternative Medicare coverage option since the 1970's. Initially,

these plans were expected to reduce costs without compromising health care quality. Medicare plans administered by private insurance companies were expected to provide the same services as traditional Medicare for 95 percent of the cost. Over time, Congress increased payments to these private entities to encourage more of them to offer Part C plans. For example, the Balanced Budget Act of 1997 increased payments to private insurers to persuade them to offer plans in rural markets. Speaker of the House Newt Gingrich credited AARP at the time with helping to pass these reforms. The payment system was revised again in 2003 as part of the Medicare Modernization Act of 2003 that brought about Part D, a program that includes prescription drug coverage in Medicare – again, the law was enacted with the support of AARP.

These private plans were designed to save Medicare money by providing the full suite of Medicare benefits for less than the cost of traditional Medicare. By 2005, however, it became clear that payments to private plans had increased too much – the higher costs were hurting Medicare's solvency and leading to higher premiums for those in the traditional program. In 2005, AARP amended its policy, urging Congress to evaluate payments to private plans, with the following language:

> *AARP urges Congress to evaluate the impact of the Medicare+Choice (M+C) reimbursement methodology to ensure reasonable participation levels in the Medicare program on the part of managed care plans and that Medicare payments to managed care plans are set at appropriate levels.*
>
> *AARP does not support paying more to private health plans for providing services to Medicare beneficiaries than covered benefits for the same beneficiaries would cost in the traditional Medicare program.*
>
> -2005 AARP National Policy Book

In 2007, this policy was simplified. It remains our current policy:

> *Medicare payments should be neutral with respect to coverage options. Congress, therefore, should set the benchmarks upon which Medicare Advantage (MA) plan payments are based so that they do not exceed fee-for-service costs.*
>
> -2007 AARP National Policy Book

Our concerns were prescient: By 2010, Medicare Advantage plans were receiving an average of 14 percent more per person than traditional Medicare. We supported the Affordable Care Act's reduction of these excess payments, in part, because it would redirect some of those savings to improve benefits (and hold down premium increases) for all people in Medicare, as well as improve the financial stability of the Medicare program.

B. Slowing the Rate of Growth in Payments to Hospitals, Nursing Homes and Other Health Care Providers.

The other major category of Medicare savings in the ACA is the reduction in the annual rate of increase (i.e., the annual updates) for reimbursements to institutional health care providers such as hospitals and skilled nursing facilities. The policies enacted in the ACA were largely based on recommendations from the Medicare Payment Advisory Commission ("MedPAC"), a group of

independent experts representing all major stakeholders, including health care providers, insurance companies, and consumers. The 2008 MedPAC report to Congress stated that these "providers can achieve efficiency gains similar to the economy at large" and that hospitals and other providers should be able to improve their productivity each year, while maintaining quality of care. As a result, the ACA partially based payment adjustments for these providers on factors such as the growth of the overall economy, the providers' productivity, and the additional revenue these providers would receive from millions more Americans having health insurance.

AARP has long recognized that dramatic cuts in payments to health care providers could result in many providers choosing to no longer treat Medicare patients. That is why we have consistently championed a permanent solution to the Sustainable Growth Rate Formula (the "Doc Fix") that perpetually threatens dramatic payment reductions to health care providers. (See public statements attached as Exhibit 1). At the same time, we acknowledge the need to find savings in our health care system, including Medicare, in order to improve Medicare's long term financial stability.

In this light, AARP carefully reviewed the ACA's adoption of the MedPAC recommendations regarding provider payments before deciding to support the legislation. Importantly, we noted that the many associations representing the health care providers themselves, particularly the American Medical Association and the Federation of American Hospitals, continued to support reform despite the adoption of the potential adjustments to the payment formula for some providers. Notably, Charles "Chip" Kahn, president of the Federation of American Hospitals, issued the following statement on November 16, 2009:

> Hospitals' commitment to our mission of serving the health care needs of seniors in communities across America is steadfast. A memorandum recently issued by the CMS Actuary analyzing the effects of "America's Affordable Health Choices Act of 2009" (H.R. 3962) concludes that some providers may end their participation in the Medicare program. Hospitals always will stand by senior citizens. This summer, hospitals agreed to contribute substantial Medicare savings as part of our shared sacrifice to reform health care and achieve near universal coverage for all Americans. We are pleased with the legislative progress as well as the movement towards market-based solutions. And we look forward to working with Congress and the Administration to enact legislation that will enable hospitals to continue to provide our patients, including seniors, with ready access to the highest quality health care possible.

We decided to support passage of the ACA only after we worked to improve the legislation by including some key consumer protections, notably around the role of the Independent Payment Advisory Board ("IPAB"), the entity tasked with implementing changes to provider payment levels. While we support efforts to reduce health costs, we believe that Medicare costs would best be controlled by examining costs across the entire health care system, not just Medicare. Thus, on December 8, 2009, AARP issued a press release (Exhibit 2) supporting a proposal to ensure that all health care costs would be addressed by any new board, instead of focusing solely on Medicare:

> It is critical that any legislation strengthens Medicare and does not weaken it. These amendments help make sure that as we fix our troubled health care system that Medicare remains a vibrant option for the millions who rely on it. Therefore, the Board's

> scope must be expanded to look at total health spending so we can make health care affordable for all Americans.
>
> AARP Executive Vice President Nancy LeaMond, "AARP Supports Freshman Senators' Amendments to Lower Health Care Costs."

On January 6, 2010, AARP CEO Barry Rand sent a letter to Congressional Leadership expressing support and concern regarding various aspects of health care reform including AARP's opposition to the Senate bill's provision on IPAB (Exhibit 3):

> [W]e do not support approaches, such as those suggested in the Senate's proposed Independent Payment Advisory Board, that rely too heavily on the Medicare program to achieve cost-containment objectives. Specifically, we are opposed to the Medicare savings targets for 2020 and beyond, which would need to be met every other year even if Medicare growth does not exceed inflation growth. AARP believes the health care system, including Medicare, is inextricably linked, and if we are to truly solve the health care cost crisis for our children and grandchildren, we must consider public and private sector costs simultaneously.

AARP also advocated to protect benefits, as well as to protect beneficiaries from higher costs. We urged Congress to include consumer protections that would prohibit benefit reductions or increases in seniors' already high out of pocket costs, protections that were eventually included as part of the establishment of IPAB in the ACA.

After enactment of the ACA, we continued to examine IPAB provisions and advocated to ensure that Medicare beneficiaries would have access to health care providers. In order to consider the potential impacts of IPAB further, on December 17, 2010, AARP's Public Policy Institute held a roundtable on issues related to IPAB, focusing on three main areas: (1) the implications of the savings targets for growth in the Medicare program; (2) the IPAB process for developing recommendations and implementing mandated spending cuts to the program; and (3) the potential for using IPAB to transform delivery and payment in the Medicare program.

As proposals to expand IPAB's role were discussed in the spring of 2011, AARP consistently expressed our concerns to Congress. On April 27, 2011, AARP submitted testimony before the Senate Special Committee on Aging hearing on "Protecting the Promise to Our Seniors: Social Security, Medicare, and the Older Americans Act," criticizing the Obama Administration for proposing an expansion of IPAB's authority:

> President Obama recently suggested that the Independent Payment Advisory Board (IPAB), established under the new law, be expanded. AARP agrees with many of the Independent Payment Advisory Board's original goals – extending Medicare solvency, slowing cost-growth and improving quality without reducing benefits or increasing cost-sharing for people in Medicare. However, we remain concerned about the spending targets the IPAB must meet in its second ten years and the unintended impact these savings targets might have on beneficiaries' access to or quality of care. (Exhibit 4).

On May 4, 2011, AARP submitted a Statement for the Record to a Senate Finance Committee

hearing on Budget Enforcement Mechanisms drawing attention to the potential impact of expanding IPAB on access to care:

> While IPAB is charged with looking at access and provider payment policies in the broader context of health system trends, we remain extremely concerned expanding IPAB could have a negative impact on Medicare beneficiaries' access to care. We do, however, strongly urge Congress to maintain the consumer protections supported by AARP – including prohibitions on cutting benefits, raising seniors' already high out of pocket costs, and rationing care – enacted as part of IPAB. (Exhibit 5).

To help draw public attention to this issue AARP also issued a press release, the same day, highlighting concerns about expanding IPAB (Exhibit 6). Further, on June 23, 2011, we submitted an identical Statement for the Record to the Senate Finance Committee hearing "Health Care Entitlements: The Road Forward".

On July 1, 2011, AARP submitted and the *Boston Globe* published a letter to the editor expressing concerns about expanding IPAB:

> While we remain concerned that over the longer term the board could have a negative impact on access to care, we do strongly urge Congress to maintain the consumer protections supported by AARP, including prohibitions on cutting benefits, raising seniors' out-of-pocket costs, and rationing care. The protections we fought for would help safeguard the critical benefits that seniors have earned through a lifetime of hard work. However, we will remain vigilant to protect against any proposal, including proposals to cap or arbitrarily cut Medicare, that would harm access or roll back these important consumer protections.
>
> David Certner, AARP Legislative Policy Director, "AARP has serious concerns about advisory board."

AARP's persistent drumbeat on the potential impact of expanding IPAB on access received significant media attention as well, including in the *New York Times*, Associated Press, and Fox News, helping to keep the pressure on the Obama Administration to ensure that IPAB's role did not expand to potentially threaten seniors' access to health care.

In sum, your letter asks if AARP was concerned about certain provisions in the ACA designed to control Medicare costs. We expressed some concerns during the debate, and then worked diligently to make sure the final legislative package included measures designed to protect the quality of and access to health care for seniors. In the end, we believed that the ACA balanced the need to ensure the long-term financial stability of the Medicare program while preserving guaranteed Medicare benefits earned by America's seniors. In addition, the ACA provided new benefits for Americans 50+ that I discussed in detail in my October 11, 2012 letter to you, including closing the "doughnut hole" in Medicare Part D, increasing coverage of preventive care, ensuring that more Americans can age in their homes, and increasing access to health insurance coverage for those ages 50-64.

I hope you find this information useful and that it helps to clarify AARP's role in supporting the effort toward health care reform while simultaneously working to improve it.

Sincerely,

Robert G. Romasco

Robert G. Romasco
President

cc: A. Barry Rand