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January 28, 2014

U.S. Senate  
Committee on Finance  
Washington, D.C. 20510

U.S. House of Representatives  
Committee on Ways & Means  
Washington, D.C. 20515

U.S. House of Representatives  
Energy & Commerce Committee  
Washington, DC 20515

Dear Chairman Baucus, Ranking Member Hatch, Chairman Camp, Ranking Member Levin, Chairman Upton, and Ranking Member Waxman:

On behalf of AARP's 37 million members and the millions of Americans with Medicare, thank you for your bipartisan and bicameral work to reform Medicare provider reimbursement and the sustainable growth rate (SGR) formula.

We are encouraged by the effort to provide a thoughtful and realistic path towards a new provider reimbursement system that will increase stability and ensure Medicare beneficiaries receive high-quality, high-value care. We recognize that the SGR reform framework does not yet include spending offsets and other critically important extender provisions. Final legislation must eliminate therapy caps and make the Qualified Individual program permanent, which helps low-income Medicare beneficiaries afford Part B premiums. As you work on the financing for the bill, we would like to offer a few options for your consideration. In particular, we want to underscore the importance of prescription drug savings, either as part of any permanent SGR fix, or as you seek to find other ways to save money in Medicare and it more efficient.

As you know, the Congressional Budget Office (CBO) estimates the cost of a permanent SGR fix could be \$116.5 billion dollars over ten years, a much lower cost estimate than in past years. The Senate Finance Committee SGR bill including extenders would cost \$150.4 billion over ten years, according to the CBO. Savings

through greater access to lower cost prescription drugs would allow you to avoid making harmful Medicare benefit cuts, as well as mitigate potential cuts to providers to finance the SGR fix. We urge you to give strong consideration to the following prescription drug proposals that could save as much as \$150 billion – savings that could help offset the cost of the SGR fix:

**Drug Rebates:** By reducing the cost of prescription drugs under Part D, both taxpayers and Part D enrollees will benefit. Enacting the *Medicare Drug Savings Act* (H.R. 1588/S. 740) would require the same prescription drug rebates that are currently required in Medicaid for drugs purchased by Medicare Part D low-income subsidy beneficiaries, including those who are dually eligible for Medicare and Medicaid and for whom such rebates were previously available prior to the enactment of Part D. The CBO estimates Part D rebates could save \$141.2 billion over ten years.

**Biologic Drugs:** Biologic drugs are used to treat many diseases, such as multiple sclerosis, rheumatoid arthritis, and cancer, which often affect older populations. The daily costs associated with biologics are approximately 22 times higher than the daily costs associated with traditional drugs, and annual costs can reach as high as \$400,000. Reducing the market exclusivity period for biologics from twelve years to seven years would yield savings by moving less expensive generic versions of biologics to market earlier. The Federal Trade Commission has concluded that no additional market exclusivity beyond the term of the patent is necessary to maintain innovation and competition for biologic drugs. The CBO estimates this change could yield savings of \$2 billion to \$4 billion over ten years.

**Pay-for-Delay:** Agreements between brand name and generic drug manufacturers can delay the introduction of less-expensive generic drugs onto the market and cost consumers and providers billions of dollars each year. The CBO has scored the *Preserve Access to Affordable Generics Act* (S. 214) and the *Fair and Immediate Release of Generics Act* (S. 504) that would prohibit these agreements and speed up market entry of generics as saving of \$3.8 billion to \$4.7 billion over ten years.

**REMS:** FDA required Risk Evaluation and Mitigation Strategies (REMS) to be designed to ensure that the benefits of a pharmaceutical drug and biologic outweigh its risk by establishing pre-market and post-market safety programs. Unfortunately, REMS are increasingly being used to block access to samples of reference products to halt generic drug and biosimilar product development. The CBO has scored a proposal (*Sec. 1131 of S. 3187, the Food and Drug Administration Safety and Innovation Act, that was not adopted into law*) to ensure appropriate use of REMS to protect patient safety while maintaining access to generic drugs and biosimilars as saving Medicare \$753 million over ten years.

As your Committees draft legislation, it is imperative to remember that the typical Medicare beneficiary lives on \$22,500 per year, and already spends nearly 17 percent of their income on health care expenses. Therefore, our endorsement of any final SGR

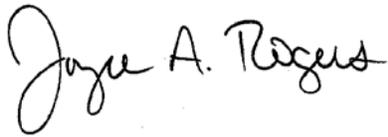
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fix legislation will depend on how Congress addresses offsets and extenders. We are confident that Medicare improvements and savings can be achieved without increasing the burden on those who depend on the program. We remain opposed to any changes to Medicare – including as part of a SGR fix – which simply ask seniors to pay more for the health care they need and already struggle to afford, while not reducing costs throughout the health care system.

Thank you for considering our comments. If you have any questions, please feel free to call me, or have your staff contact Ariel Gonzalez on our Government Affairs staff at [agonzalez@aarp.org](mailto:agonzalez@aarp.org) or 202-434-3770.

Sincerely,

A handwritten signature in black ink that reads "Joyce A. Rogers". The signature is written in a cursive, flowing style.

Joyce A. Rogers  
Senior Vice President  
Government Affairs

cc: Speaker Boehner, House Minority Leader Pelosi, Senate Majority Leader Reid, and Senate Minority Leader McConnell

All Senate Finance Committee, House Ways & Means Committee, and House Energy & Commerce Committee members