

JAMES H. DOUGLAS
Governor



State of Vermont
OFFICE OF THE GOVERNOR

June 14, 2010

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
Washington, DC 20201

Dear Secretary Sebelius:

KATHLEEN

I am in receipt of your letter of June 11, 2010 regarding VPharm, Vermont's state-only program that provides pharmaceutical coverage to low-income Medicare beneficiaries, and our plans to use the \$250 rebates being sent to VPharm beneficiaries to help sustain this valuable program.

As you are aware, we have led the nation in state health care reform and have worked very collaboratively with the Obama administration as federal reform has been enacted. I appreciate your recognition that Vermont is a national leader in supporting our low-income seniors to cover their pharmacy costs.

However, I think it is important that I explain the full extent of the support that we provide to beneficiaries in this program. Annually, our VPharm program has 12,500 beneficiaries across three benefit plans: VPharm1 (up to 150% FPL), VPharm 2 (up to 175% FPL), and VPharm 3 (up to 225% FPL). For all three populations, we use *state only funds* to pay their Medicare Part D premiums (up to the regional benchmark of \$34.57 per month) and all cost-sharing for all maintenance drugs that are covered by Medicare Part D. In addition, we use *state only funds* to pay the cost-sharing for all drugs (including non-maintenance medications) for VPharm1 enrollees. In total, the State of Vermont spends \$1.7 million for Part D premiums and \$9.6 million for these beneficiaries' pharmacy cost-sharing, minus approximately \$3.8 million we receive from manufacturers in the form of rebates. In addition, we pay for the costs of all drugs excluded in the Medicare Part D plans for all three VPharm plans, and receive federal assistance for this coverage. In return, beneficiaries pay a monthly premium of \$15, \$20 or \$50, respectively, and a very modest co-pay of \$1 or \$2 per prescription, depending on the cost of the medication. In sum, this is a very generous program that defrays almost all costs of Medicare Part D prescription drug coverage for enrollees.

Of the 12,500 total VPharm enrollees, we estimate that 2,800 will enter the Medicare Part D donut hole this year. As such, we were hopeful that HHS would work collaboratively with us to develop a method to capture the \$250 rebates directly, since we are using state taxpayer dollars to pay for the donut hole prescription costs for these beneficiaries, and without capturing the rebates, beneficiaries would essentially be receiving the benefit twice. In fact, this was a

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component of our budget deliberations with our legislature this year, and we were all counting on the estimated \$590,000 from this recovery to help sustain this valuable program for Vermont elders. Contrary to your assertion, we were not reducing benefits to relieve budget constraints; we were trying to sustain a very valuable program that provides significant financial benefits to Vermonters that the federal government is not covering, and our recently approved state budget reflected that commitment.


Unfortunately, HHS was unwilling to work collaboratively with Vermont and other states that have these cost-sharing programs. Hence, we have been placed in the untenable position of having to develop a plan to access these funds directly from elders after they receive the checks.

At this point, due to the lack of cooperation from HHS, it appears that it is going to be administratively burdensome and also confusing to our beneficiaries to implement this effort as planned. While we will not be pursuing recovery of \$250 rebates at this time, we have communicated with legislative leaders and we will be working with our General Assembly during the next legislative session to develop a remedy to this negative financial impact on Vermont taxpayers.

It is important to note that the Patient Protection and Affordable Care Act will actually cost Vermont taxpayers at least \$6.8 million over the next two years – a financially difficult burden for the state at a challenging time. We will continue to work with legislators and our congressional delegation to address the broader financial impact of federal health reform on our state budget.

I certainly hope this is not indicative of what lies ahead for collaboration between HHS and states that have taken the lead on health care reform. While some states are suing the federal government, Vermont has committed – in good faith – to implementing and continuing to lead on health care reform. You have repeatedly said in words and writing that your Agency will implement reform by working in partnership with states. I sincerely hope that this rebate check experience is a one-time event.

Sincerely,



James H. Douglas
Governor

JHD/pht

c: The Honorable Patrick J. Leahy
The Honorable Bernie Sanders