

U.S. SENATE,

*Washington, DC, November 4, 2005.*

Hon. BILL FRIST,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR FRIST, It is our understanding that the House of Representatives will include the repeal of the Continued Dumping and Subsidy Offset Act (CDSOA) in their budget reconciliation measure. We do not believe that the budget reconciliation process should be used to substantively change U.S. trade law.

The goal of our trade laws is to ensure that an even playing field is provided for American and foreign producers of goods. As you know, Congress passed CDSOA in response to concerns about the consistent, unfair trade practices in which some of our trading partners have been engaged. Under CDSOA, hundreds of companies, farmers, ranchers, and worker groups, from all across America, have received distributions from duties collected from our trading laws. Recipients include large, medium and small companies, worker representatives and farmers in nearly every state in the country.

Seventy-two senators have made their opposition to repealing CDSOA public. Should legislation regarding budget reconciliation move towards conference, we would urge the Senate not to accede to any provisions that may be included in the House bill that would repeal CDSOA.

Sincerely,

Mike DeWine, John Warner, Elizabeth Dole, Larry E. Craig, George V. Voinovich, Arlen Specter, Johnny Isakson, \_\_\_\_\_, Rick Santorum, Conrad Burns, Norm Coleman, Mel Martinez, Saxby Chambliss.

Richard Shelby, Olympia Snowe, George Allen, John Thune, Susan M. Collins, Mike Crapo, Jim Bunning, David Vitter, John Cornyn, Thad Cochran, Trent Lott, Michael B. Enzi.

U.S. SENATE,

*Washington, DC, February 4, 2003.*

Hon. GEORGE W. BUSH,  
President of the United States,  
Washington, DC.

DEAR MR. PRESIDENT: We write to express our strong interest regarding the approach that may be taken by the U.S. Government in response to the WTO Appellate Body's January 16, 2003, ruling that the United States violated its WTO obligations when it enacted the Continued Dumping and Subsidy Offset Act (CDSOA) in 2000. In our view, the WTO has acted beyond the scope of its mandate by finding violations where none exists and where no obligations were negotiated.

CDSOA is a payment program established by Congress to address policy objectives that can enable our domestic producers to continue to invest in their facilities and workers. Its continued operation is critical to preserve jobs that will otherwise be lost as the result of illegal dumping or unfair subsidies and to maintain the competitiveness of American industry.

In its November 2002 statement to the Appellate Body defending this law, the Administration stated that, "[T]he Panel in this case has created obligations that do not exist in the WTO Agreements cited. The errors committed are serious and many about a statute which, in the end, creates a payment program that is not challenged as a subsidy." We concur with this statement and consequently believe that America's trading partners must be pressed into negotiations on CDSOA prior to any attempt to change our laws.

Specifically, we urge you to: (1) seek express recognition of the existing right of WTO Members to distribute monies collected

from antidumping and countervailing duties; (2) promptly integrate the Administration's recent Report to Congress on the WTO Dispute Settlement Process; and (3) consult closely with the Congress on the particulars of any approach taken in negotiations on this issue.

We look forward to consultations with your Administration on this important matter and to obtaining a positive resolution that preserves the law for American companies and their workers.

Sincerely,

Robert C. Byrd, Max Baucus, Mark Dayton, Tom Daschle, Jay Rockefeller, John Breaux, Kent Conrad, John F. Kerry, Jeff Bingaman, Mike DeWine, Rick Santorum, Larry E. Craig, Trent Lott, Jim Bunning, \_\_\_\_\_, Olympia Snowe, George V. Voinovich, Arlen Specter, Dianne Feinstein, Dick Durbin.

Blanche L. Lincoln, John Edwards, Fritz Hollings, Joe Biden, Hillary Rodham Clinton, Jon Corzine, Byron L. Dorgan, \_\_\_\_\_, Saxby Chambliss, Susan

Collins, Mike Enzi, Evan Bayh, Robert E. Bennett, Craig Thomas, Pete Domenici, Thad Cochran, Richard Shelby, Russell D. Feingold, Ron Wyden.

Tom Harkin, Debbie Stabenow, Daniel Inouye, Frank R. Lautenberg, Mark Pryor, \_\_\_\_\_, Zell Miller, Paul Sarbanes, Mike Crapo, John Warner, Harry Reid, Jeff Sessions, Ben Nighthorse Campbell, Jack Reed, E. Benjamin Nelson, Barbara A. Mikulski, \_\_\_\_\_, Ted Kennedy, Patrick Leahy, Jim Jeffords.

Herb Kohl, Joseph Lieberman, Chris Dodd, Tom Carper, Carl Levin, Barbara Boxer, Bill Nelson, Mary L. Landrieu, Daniel K. Akaka, Judd Gregg.

Mr. SPECTER. I thank the Chair and thank my colleague from New Mexico, who has been waiting patiently, or at least waiting, and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

#### MEDICAID

Mr. BINGAMAN. Mr. President, I rise to speak briefly in support of the motion that I understand is to be made by the Senator from Montana, Mr. BAUCUS, who is here on the floor, to instruct conferees with respect to the Medicaid Program.

The motion to instruct conferees on the Medicaid Program highlights one of the many ways in which the House of Representatives budget reconciliation bill radically departs from the Senate bill. Let me spend a very few minutes highlighting the differences between the House and Senate packages on Medicaid, particularly with regard to the health of children.

The contrast between the two bills could not be more stark. The Senate bill arguably improves coverage of children through the inclusion of the Family Opportunity Act that provides a State option to expand Medicaid coverage to children with disabilities and through inclusion of outreach and enrollment funding based on legislation that Senator FRIST and I introduced earlier this year.

In sharp contrast, however, according to the Congressional Budget Office, the

House budget reconciliation package imposes increased cost sharing on low-income Medicaid beneficiaries and reduces health services by \$6.5 billion over 5 years and by \$30.1 billion over 10 years.

For children, the impact of the House bill would be devastating. Medicaid covers more than 27 million children, almost one in four in this country. Medicaid also covers more than a third of all the births and health care costs of newborns in the United States each year.

In spite of the importance of Medicaid for children, the House budget package increases cost sharing for all children who rely on it for prescription drugs or for emergency room services. The bill also allows States to impose premiums for the first time under Medicaid for children's coverage and to deny children coverage even if their family cannot afford to pay the premium or other cost sharing.

The House budget bill also allows States to eliminate the early and periodic screening diagnosis and treatment benefit rules that are so critical to the health of children with special health care needs and disabilities. Benefits that could be lost include comprehensive developmental assessments, assessment and treatment for elevated blood lead levels, eyeglasses, dental care, hearing aids, wheelchairs and crutches, respiratory treatment, comprehensive mental health services, prescription drugs and speech and therapy services. In short, three-fourths of the savings in the House bill come at the expense of low-income Medicaid beneficiaries. By CBO's estimate, half of the beneficiaries affected by the increased cost-sharing provisions in the House package are imposed on children, and half of those who will lose Medicaid benefits would be children.

In CBO's own words:

We estimate that the number of affected enrollees [due to increased cost-sharing requirements] would increase from 7 million in 2010 to 11 million in 2015, and that about half of those enrollees would be children.

CBO adds that, due to added premiums, "about 70,000 enrollees would lose coverage in fiscal year 2010 and 110,000 would lose coverage in fiscal year 2015 because of the imposition of premiums."

Furthermore, CBO estimates that the flexibility in the House bill to reduce benefits will also heavily impact children. CBO estimates that "benefit reductions would affect an estimated 2.5 million Medicaid enrollees in 2010 and about 5 million enrollees by 2015—about 8 percent of the Medicaid population—and that about one-half of those receiving alternative [or reduced] benefit packages would be children."

Without the Medicaid Program, the number of children without health insurance, which was 8.3 million in 2004, would be substantially higher. In fact, the number of uninsured children has dropped by over 300,000 over the past 4 years due in large part to Medicaid and

the SCHIP Program. We should not at this time be taking steps backward by reducing coverage for low-income and vulnerable populations that primarily include the children I have been referring to.

I urge that colleagues support the Baucus motion to instruct conferees on Medicaid. We are coming into the holiday season. This is not a time when we, the wealthiest Nation in the world, should be cutting health care assistance to the low-income children of this country. I did not support the Senate budget reconciliation bill for a variety of reasons, but even with the imperfections that were in that bill, it was far superior to the House budget package. For one thing, it does not contain the type of cuts for children's health that are included in the House bill.

I urge my colleagues to recognize how much better the Senate bill is for the health and well-being of our Nation's children. I urge my colleagues to vote to instruct conferees to support the Senate's approach over that of the House of Representatives.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

#### BUDGET RECONCILIATION

Mr. BAUCUS. Mr. President, at the appropriate time I will be sending a motion to instruct to the desk. I will be doing that at a later time. In the meantime, I rise to speak on that motion.

The motion instructs the Senate conferees on the spending reconciliation bill not to bring back a conference report that hurts Medicaid beneficiaries. This is the item about which the Senator from New Mexico just spoke.

Last month, the House passed such a bill, one that would hurt Medicaid beneficiaries. The House passed a bill that would cut health care for millions of seniors and lower income Americans who depend on Medicaid.

I believe the Senate should reject these harmful cuts. In early November, the Senate voted by a thin margin to cut Medicaid, our Nation's safety net health program for low-income Americans. Many of us at that time objected to those cuts. That day, the Senate bill planted a seed of opportunity to make even more harmful cuts, hurting millions of low-income children, seniors, pregnant women, and individuals with disabilities. Just 2 weeks ago, the Senate reconciliation bill bore bitter fruit. Why? Because the Medicaid cuts in the House bill turned out to be substantial and, in fact, will hurt millions of the poorest and neediest among us.

According to the Congressional Budget Office, most of the Medicaid savings in the House bill come from targeting our poorest citizens. CBO says three-quarters of the House bill's Medicaid savings come from provisions that increase costs, cut benefits, or impair access to services for low-income individuals. These cuts will affect millions of

people. The CBO estimates that about 17 million Medicaid enrollees will pay more under the House bill, and half of those paying more will be children.

Who will these cuts affect? Medicaid now serves more than 50 million low-income Americans. A quarter are children. A quarter are seniors and disabled. The rest are pregnant women, low-income parents, and individuals with serious medical needs.

Many believe that all low-income Americans are eligible for Medicaid. That is not the case. Often only the very poor qualify. On average, a non-working parent making about \$150 per week for a family of three makes too much for Medicaid. Again, a non-working parent of a family of three making about \$150 a week makes too much for Medicaid. That is less than one-half the Federal poverty level.

Eligibility levels for working parents are also low. On average, a working parent with a family of three earning more than \$5.50 an hour also makes too much to qualify for Medicaid. So we are talking about the very poor.

Under the House bill, these needy individuals will pay more for less. CBO estimates that about 80 percent of the savings from increasing cost sharing would come from decreased use of health care services. Some may say that increasing cost sharing will curb waste, abuse. I am not saying we cannot or should not look at reducing unnecessary treatments under Medicaid. Far from it. But increasing cost sharing is not the right way to do it.

Increasing costs deters patients from seeking health care services, both good and bad services. If we really want to control overuse of services, we should be investing in care management strategies for expensive chronic diseases such as diabetes. These strategies have proven to lower cost while increasing the quality of care.

Increasing enrollee cost sharing can also have unintended systemwide effects. Many States have already said they will deduct the new copayment fees from provider rates regardless of whether providers collect the fees. The result puts the new burden on doctors and clinics and hospitals serving our health safety net. Many of these providers will be forced to make up uncompensated care costs by increasing private market rates, which will drive up health care costs for all of us, leading to more uninsured and an even greater need for Medicaid.

Even more troubling, the House bill's premium increases will result in tens of thousands of individuals losing Medicaid coverage. According to CBO, about a quarter of the savings from the premium increases are for individuals losing coverage. We don't need to rely on CBO to know that this will actually happen. Why? Because in the State of Oregon, this was tried, and the results were quite clear and disturbing. That State began to enforce nominal monthly premiums for higher income Medicaid beneficiaries. What happened? Or-

gon saw its enrollment drop by nearly one-half in 10 months. Nearly 50,000 individuals lost coverage.

This increased cost sharing amounts to a tax on poor families now in Medicaid. For a family of three with income at 135 percent of poverty, annual cost sharing would be as high as \$1,086 per year or, stated another way, about 60 percent of their annual Federal tax liability.

Let me say that again. For a family of three, with income at 135 percent of poverty, annual cost-sharing could be as high as over \$1,000, which amounts to less than 60 percent of their annual Federal tax liability. In effect, it is a tax—a big tax, about 60 percent of their Federal tax. Add them together and it is about 160 percent of tax they are paying.

Many of these poor individuals would also be forced to pay more to get less. How? Because the House allows States to cut Medicaid benefits.

The Congressional Budget Office estimates that 5 million enrollees would see their benefits cut over the next 10 years. Half of those affected would be children. Higher income children would no longer have guaranteed access to medically necessary care under Medicaid.

It is also unclear whether individuals with disabilities and chronic conditions would be protected. This could undermine access to more expensive treatments and services for those individuals who turn to Medicaid because the private market will not cover them.

Shifting costs and cutting benefits for our poorest and least able to pay is not the smart way to preserve our Nation's safety net for future generations.

In the Finance Committee, many of my colleagues on the other side of the aisle chose to support the Senate bill because it didn't include changes that would hurt Medicaid beneficiaries. My friend and colleague, Finance Chairman GRASSLEY, praised the bill, saying it "protects Medicaid benefits for the most vulnerable in our society."

The Senator from Oregon, Mr. SMITH, said that "the reconciliation package we are considering today is not only fiscally responsible, but also morally defensible. This is a bill that protects the less fortunate among us. It takes pains to preserve the vital safety net programs that millions of Americans rely on."

And the junior Senator from Pennsylvania said during the committee markup:

Let us set the record straight. We are not cutting health care services to the beneficiary.

So today I will offer this motion to set the record straight on Medicaid cuts. This motion instructs Senate conferees on the reconciliation bill to reject changes to Medicaid that would hurt Medicaid beneficiaries or undermine Medicaid's guarantee. Given the threat of the cuts passed in the House, the Senate must take a stand in support of the neediest among us.