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VIRGINIA

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JOINT ECONOMIC COMMITTEE

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# United States Senate

WASHINGTON, DC 20510-4605

February 3, 2009

The Honorable Robert Gates  
Secretary of Defense  
The Pentagon  
Washington, D.C. 20301-1000

Dear Secretary Gates:

I am writing with regard to a November 21, 2008, letter to you that I co-signed with 56 other U.S. Senators expressing our concerns over the new TRICARE outpatient prospective payment system (OPPS) rule. I have not received a reply to that correspondence, but in accordance with the Obama administration's new Regulatory Review guidance, I request that you extend the final regulation's effective date by 60 days and reopen it for public comment.

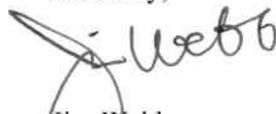
The reliability and validity of the data used by the Department of Defense (DoD) and its economic impact methodology have been challenged by health-care professionals. If a more effective and extended transition is not adopted to implement the new rule, many of our TRICARE beneficiaries in Virginia will experience a significant disruption in services.

In its final rule, the DoD estimated that TRICARE hospital outpatient revenue will decline by \$598 million, or 25 percent, in the first year. This estimate is nearly *seven times* DoD's original estimate of \$81 million as noted in the proposed rule. This discrepancy is not adequately explained in the final rule. Of note, the proposed rule's estimated impact fell below the \$100 million threshold necessary for the rule to be deemed "economically significant." Had the impact exceeded this threshold, a more thorough analysis would have been required under the Congressional Review Act. Clearly, DoD's revised estimate of the decline in hospital outpatient revenue shows that a thorough review is needed before the new rule is implemented.

I recognize that DoD is required by law to make changes in the way TRICARE pays hospitals for the outpatient care they provide to our military and that it must conform to Medicare "to the extent practicable." I strongly believe, however, that these changes should be implemented with a much more effective transition. In 1996, DoD implemented a 15 percent stop-loss transition for physicians to bring TRICARE payments in line with Medicare payments. I encourage DoD to consider an identical transition for network hospitals. Cutting TRICARE hospital outpatient payments abruptly by 25 percent is unreasonable and without precedent.

In light of these deficiencies, I strongly urge you to review the final regulation regarding TRICARE payments for hospital outpatient services and re-open the rule-making process. Thank you for your consideration of my views on this matter.

Sincerely,



Jim Webb  
United States Senator