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Ltr. answer

JEFF BINGAMAN
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United States Senate

October 20, 1993

Mr. Chris Jennings
Chief Congressional Liaison
for Health Care Reform
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Chris:

As we discussed during Monday's global budget meeting in Senator Baucus' office, I am enclosing a copy of Senator Bingaman's most recent letter to Mrs. Clinton on health care reform. The letter describes two provisions Jeff would like to see addressed in the President's health care reform proposal: **direct billing and Department of Defense tobacco pricing policies.**

We are frustrated because, based on our examination, neither provision has been incorporated into the President's plan. We do not understand the Administration's reluctance to address these two issues because both, in our view, have proven cost containment benefits. Jeff's DoD tobacco pricing initiative, which would require the Department to sell tobacco products at "prevailing local prices" rather than currently discounted and non-taxed prices, is particularly appealing, we believe, since it would raise much-needed revenues.

We appreciate very much any help you can provide in determining the feasibility of including these two provisions in the President's plan. If we can get these issues addressed, along with the global budgetting problem, I am confident Jeff will cosponsor the President's legislative proposal when it is introduced.

(To be completely honest, Jeff probably will cosponsor the bill and help the President in any way he can whether or not these provisions are included. But it would be so nice to get them out of the way...)

Again, thanks very much for your help. Keep up the good work, and please let me know if we can do anything for you.

Sincerely,

Carrie L. Billy
Legislative Assistant

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United States Senate

September 24, 1993

Mrs. Hillary Rodham Clinton
Chair
Task Force on National Health Care Reform
The White House
Washington, D.C. 20500

Dear Mrs. Clinton:

I write today to request your attention to two issues I believe should be addressed in the President's comprehensive health care reform proposal. I have raised these issues in the past, but my review of the draft plan compels me once again to mention the need to address:

(1) **a requirement for direct billing; and**

(2) **Department of Defense tobacco pricing policies.**

Before detailing my concerns, I want to commend and congratulate the President, you, and your staff for your excellent work on health care reform. The President's speech earlier this week was a tremendous success, due in large part to your extraordinary leadership and deep personal commitment to this issue. The President's proposal for comprehensive health care reform is a starting point for the kind of change our nation needs.

Already, the President and you have done an immeasurable service to this country and our future. You have crafted a thoughtful plan for health care reform and propelled the debate further than it has ever been in our generation. You have brought us beyond the point of turning back, and our nation will reap the benefits for decades to come.

Although we have made tremendous progress during the past weeks and months, our work is not complete. I am sure you agree with me when I say that the President's proposal, although comprehensive, is not the final step toward reform. The Congress and the American people must work with you to make sure that we accomplish the difficult task of comprehensive reform.

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For this reason, I again raise the two issues I mentioned above. I would appreciate knowing whether either will be addressed in the President's plan. If these matters cannot be addressed, I would like to discuss with you or your staff the reluctance to include them. I look forward to hearing from you soon.

1. <u>Direct Billing</u>:

Earlier this year, Senator Metzenbaum and I introduced the enclosed bill, the Ethics in Referrals and Billing Act, S. 337. The legislation consists of two parts: (1) it prohibits monopolistic acts of "self-referral" by physicians; and (2) it requires that laboratories performing medical tests "direct bill" the person or insurer responsible for payment.

I am pleased that the President's plan incorporates many provisions identical or similar to those included in the "self-referral" sections of S. 337. I am troubled, however, that the plan fails to include a requirement for direct billing. This omission is particularly problematic because the plan specifically stipulates that each Regional Health Alliance must offer at least one fee-for-service health plan. Enactment of a federal direct billing law would help eliminate some of the cost shifting that occurs in a fee-for-service system and would reduce the volume of tests ordered by physicians.

Under our current system, a physician can request that a laboratory bill him or her for testing ordered for non-Medicare patients. Because the lab cannot order testing itself, the physician can also request -- and receive -- discounts from the lab providing the testing. The physician can then mark-up the cost of the test when a third party or patient is billed.

Recognizing the tremendous cost and waste this practices poses to the system, Congress already has enacted laws mandating direct billing in the Medicare program. Some states (Michigan and New York, for example) and a few insurance carriers have adopted similar direct billing requirements. Reputable studies have proven the cost saving benefits of direct billing, and both Democrats and Republicans in the Congress have expressed support for expansion of the Medicare direct billing requirement.

In my view, a requirement for universal direct billing is a common sense cost containment measure: it will help stop abusive practices that do little more than drive up health care costs. Failure to address this issue will mean that we have fallen short of our goals of containing costs; eliminating duplication, unnecessary procedures, and cost-shifting; simplifying administration; and creating a system focussed on improving health rather than increasing profits.

Again, I urge you to include a direct billing requirement in your health reform proposal.

2. Department of Defense Tobacco Pricing Policies:

As you may know, tobacco products in military commissaries, post exchanges, and ships' stores are sold at prices significantly lower than prices charged in non-military establishments. This is because military commissaries, post exchanges, and ships' stores are exempt from collecting tax on the products they sell.

For the past several years, I have tried to convince the Department of Defense to stop it practice of discounting tobacco products. I have asked three secretaries to change the policy internally, and I have introduced legislation stating that tobacco products sold in military commissaries, post exchanges, and ships' stores are to be sold at prices competitive with the local marketplace. Overseas, tobacco products are to be sold at prices equal to the U.S. average price. A copy of my most recent legislative initiative is enclosed.

For two reasons, I urge you to consider including a provision on this issue in your health reform proposal. First, we need to do more to discourage smoking in the military. In 1991, 40.9 percent of all military personnel smoked cigarettes. This is 11 percent higher than the national average. I believe the price differential that military personnel see when they purchase cigarettes in commissaries and exchanges contributes to their high smoking rate. In the U.S., cigarettes are 35 percent cheaper in commissaries and up to 20 percent cheaper in exchanges than they are in civilian stores. Overseas, tobacco products are 40 to 60 percent cheaper than the average U.S. price. During Operation Desert Storm, a carton of cigarettes cost $8.50 overseas, compared to an average U.S. price of $14.65.

I am advocating an increase in military tobacco prices for another, more obvious reason: the President's decision to help finance health care reform through an increase in the federal tobacco tax. As I outlined above, a price disparity currently exists between tobacco products sold in military establishments and those sold elsewhere. If the price disparity is allowed to grow between cigarettes sold off-base versus on-base, we could be inadvertently encouraging a "black market" for cigarette sales similar to the market that exists today in Canada. Canadian officials have acknowledged that the price difference between Canadian and U.S. cigarettes (several dollars per pack) has led to a tremendous growth in the illegal trafficking of cigarettes. Not only does this black market encourage smoking, but it deprives their nation of a significant amount of tax revenue.

Some individuals have argued that a mandatory increase in the price of tobacco products will set precedent for the removal of tobacco products from commissary shelves. This simply is not true. I say this with confidence because in 1982, at the direction of the Secretary of Defense, the price of most alcoholic beverages sold in commissaries was increased to the prevailing local price minus 10 percent. Over the

past 11 years, no product has been removed from commissary shelves because of the Secretary's action on alcohol pricing. None will be removed as a result of an increase in tobacco prices.

As you finalize your health care reform proposal, I urge you to keep in mind the health and fiscal benefits of discouraging tobacco use among our military personnel.

In closing, I want to thank you again for your commitment to health care reform and for your continuing interest in working with the Congress on this important national issue. I look forward to hearing from you soon. As always, I send my best regards.

Sincerely,

Jeff Bingaman
United States Senator