

Congress of the United States
Washington, DC 20515

May 24, 2013

Hon. Kathleen Sebelius
Department of Health and Human Services
Humphrey Building, Room 416 G
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sebelius:

In recent news reports, your office confirmed that you have been encouraging private sector health care executives to contribute to third-party nonprofits seeking to enroll individuals in health care exchanges.¹ Given the broad powers of your office, these solicitations create the impression that supporting the administration's efforts may be viewed favorably in the context of future policy decisions. Nowhere is this conflict of interest more apparent than relative to the powerful role the Secretary has in the Independent Payment Advisory Board (IPAB) process.

As you know, the Secretary of Health and Human Services is required to review and comment on any proposal made by the IPAB and has ultimate responsibility for implementing the board's recommendations. This puts your office in a very powerful position to influence changes to the Medicare program that are not subject to administrative or judicial review.

Of greatest concern is the potential for you to serve as an "IPAB of One" with near-unilateral power to make proposals that would be considered under Congressional fast-track procedures, and which would have a significant impact on many of the same companies you may have solicited. The Congressional Research Service has confirmed that should the IPAB fail to submit a proposal to cut Medicare spending during a year in which it was required to do so, this power would be transferred to your office.²

You have received numerous Congressional requests for clarity on your communications with the health care industry. It is critical that Congress have a clear understanding of the discussions you have had with companies your department regulates, as well as any funds that were raised from these efforts.

¹ Pear, R. (2013, May 12). Cabinet Secretary Solicits Large Donations to Publicize Health Care Law. *The New York Times*. Available at: http://www.nytimes.com/2013/05/13/us/politics/health-secretary-raises-funds-for-health-care-law.html?_r=3&.

² Davis, C. (2013, May 9). Independent Payment Advisory Board: Contingent Development by the Secretary of Health and Human Services of a Legislative Proposal Relating to Medicare. Congressional Research Service Memorandum for Sen. Tom Coburn. Available at: http://www.coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=f642ac59-0812-44ff-938a-1645e8bc7963.

In the event you or your office is required to engage in the IPAB process, would you recuse yourself to avoid creating the impression of a conflict of interest? At a time of diminished trust in government, it is imperative that we make all efforts to eliminate any appearance of favoritism.

Sincerely,


Phil Roe, M.D.
Member of Congress


John Cornyn
United States Senator