

# United States Senate

WASHINGTON, DC 20510

January 20, 2010

The Honorable Henry McMaster  
Rembert Dennis Building  
1000 Assembly Street, Room 519  
Columbia, S.C. 29201

Attorney General McMaster:

We appreciate the time and hard work you have put into analyzing the unusual, if not unprecedented, provision in the Senate health care bill in regards to Nebraska's future Medicaid expenses. Your legal analysis regarding the unequal treatment of the states by the federal government has helped us better understand and hopefully address some of the negative consequences of the legislation.

We would also like to request that you investigate, and if the facts again warrant, expand the scope of your investigation to include another serious issue -- the unusual and disparate treatment of individuals currently enrolled in the Medicare Advantage program.

Medicare Advantage, as you may know, is the privately-managed option that one fifth of seniors have already chosen instead of traditional fee-for-service Medicare. The program offers seniors a choice in how their Medicare benefits are delivered. Medicare Advantage more closely resembles the insurance plans that many of these beneficiaries had as workers. Some of these plans also cover benefits that fee-for-service Medicare does not; for example, dental and vision benefits, hearing aids, chronic care management, and reduced beneficiary cost sharing. Medicare Advantage enrollment represents about 329,000 seniors in Arizona, 176,000 in Georgia and 111,000 in South Carolina.

As currently written, Section 3201(g) of the Patient Protection and Affordable Care Act appears to have been drafted in such a manner that it would effectively "grandfather" Medicare Advantage enrollees living in specific counties in the State of Florida into the program, while subjecting approximately 10 million Medicare Advantage enrollees across the US to significant cuts in their benefits.

Medicare Advantage enrollees in other states are likely to see their Medicare Advantage program benefits drastically slashed, if not virtually eliminated. In many cases, they may have no choice but to switch back to fee-for-service Medicare, which brings with it additional financial burdens such as unlimited out-of-pocket expenses and gaps in coverage that often require the purchase of supplemental insurance.

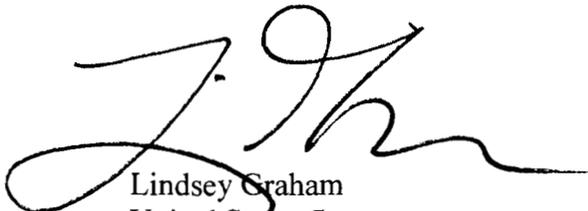
We have serious concerns about the effects of this provision on all Medicare Advantage beneficiaries who do not reside in these specific Florida counties. We would like your opinion

on this situation and would be interested to learn of any legal issues that you believe could be posed to the unequal Medicare Advantage policy that will be enacted under this legislation.

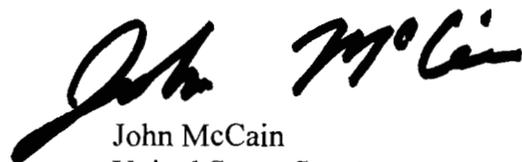
We also want to be clear that our problem is not with Medicare Advantage enrollees in the State of Florida, it is with the disparate treatment that enrollees in other states will receive in relation to enrollees in Florida.

We thank you in advance for your consideration and look forward to receiving your analysis of this specific provision and its impact on the residents of our states and seniors nationwide.

Sincerely,



Lindsey Graham  
United States Senator



John McCain  
United States Senator



Saxby Chambliss  
United States Senator



Jim DeMint  
United States Senator



Johnny Isakson  
United States Senator