



AMERICANS FOR TAX REFORM

GROVER G. NORQUIST

PRESIDENT

November 6, 2007

To: All Senators

Subject: Opposition to potential amendment to Medicare Secondary Payer (MSP)

Dear Senator,

On behalf of Americans for Tax Reform (ATR), I urge you to work and vote against any proposed “clarifying amendment” to the Medicare Secondary Payer (MSP) statute that would open the door to an explosion of litigation in the federal court system. In light of discussion of this amendment emerging as part of a bill related to Medicare in the next few weeks, I would like to highlight the damaging affects the proposed changes would inflict on taxpayers and industries that fuel our economy.

Under current law, the MSP sets the government up as secondary provider of medical insurance when a Medicare recipient has another source of primary insurance coverage. As the government is, in essence, the back-up provider, if Medicare makes a payment for a recipient with other primary coverage, the government could sue the primary insurer for reimbursement.

If the so-called “clarifying amendment” were approved, private lawyers would be able to sue any company or entire industry for treatment of Medicare recipients allegedly injured by a product in federal court. Furthermore, the amendment would effectively **remove the requirements for a trial lawyer to prove a product caused injury, instead allowing speculation and statistical probabilities to replace proof.**

The results of the amendment would be massive claims, not subject to class action safeguards, as trial lawyers begin to sue to collect costs for every Medicare recipient who was injured by a particular product – even in cases where state tort law already allows recovery for those who were actually injured. While the amendment may sound innocuous, it would allow trial lawyers to sue to collect costs for Medicare recipients in such far reaching cases as all recipients who regularly ate unhealthy food and then had heart problems or for all recipients who were injured in a particular car.

I once again urge you to oppose all efforts to pass the “clarifying amendment” to Medicare Secondary Payer (MSP).

Onward,

Grover Norquist