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July 10, 2013

The Honorable Daniel R. Levinson  
Office of the Inspector General  
Department of Health and Human Services  
330 Independence Avenue, SW  
Washington, DC 20201

Dear Inspector General Levinson:

I write to request an updated review of the August, 2011 report, "Higher Rebates for Brand-Name Drugs Resulted in Lower Drug Costs for Medicaid Compared to Medicare Part D." This report, using 2009 data, surveyed the top brand and generic drugs and found that Medicaid collected nearly two-thirds as much in rebates as Part D despite having only one-fourth of the expenditures.<sup>1</sup>

Last month, I chaired a hearing for the Senate Special Committee on Aging entitled, "10 Years Later: A Look at the Medicare Prescription Drug Program." During this hearing, I presented data on four different drugs provided to me by your office that was used in the development of the IG's 2011 report. These examples showed in real terms the discrepancy between rebate dollars collected in Medicaid as compared to Medicare, for the exact same drugs. However, because the IG's dataset used 2009 data, I am concerned that the figures provided, while significant, do not take into account the change in the base Medicaid rebate percentage mandated by the Affordable Care Act, which was passed by Congress in 2010.

It is for this reason that I request that your office re-examine this issue, taking into account the changes to the Medicaid rebate formula in the Affordable Care Act, and the proportion of rebate dollars that are attributable in Medicaid to the inflation-based add-on penalty. Given the potential impact on beneficiary and Government expenditures, a review re-examining any differences in rebates collected by each program is warranted at this time.

I offer my sincere thanks to your Philadelphia and Washington, D.C. staff for their swift assistance with preparations for the Committee's hearing, and I look forward to working with you further on this important issue.

Sincerely,



Bill Nelson  
Chairman

<sup>1</sup> Levinson, Daniel R. "Higher Rebates for Brand-Name Drugs Result in Lower Costs for Medicaid Compared to Medicare Part D." August, 2011, # OEI-03-10-00320, <https://oig.hhs.gov/oei/reports/oei-03-10-00320.pdf>.