



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

March 24, 2010

The Honorable Max Baucus
United States Senate
Washington, DC 20510-2602

Dear Chairman Baucus:

Thank you for your March 22 letter bringing to my attention a drafting error in the Patient Protection and Affordable Care Act (PPACA), which the President recently signed into law. Thank you for raising this important issue.

As you know, Section 1501 of PPACA generally requires that individuals maintain minimum essential coverage beginning in 2014, and identifies several existing government-sponsored programs that are deemed to offer such coverage. The identified programs include the TRICARE for Life program and the veteran's health care program under chapter 17 of title 38 of the United States Code, but do not include a number of other military and veterans' health care programs, including the ones noted in your letter.

You accurately note that section 1501 grants the Secretary of Health and Human Services the discretion to coordinate with the Secretary of the Treasury to recognize health benefits coverage beyond the programs discussed above as meeting the minimum essential coverage definition. Our analysis is that coverage under TRICARE (as well as other coverage under chapter 55 of title 10 of the United States Code) and coverage under the Nonappropriated Fund Health Benefits Program of the Department of Defense – including coverage for dependents under such programs – meet the minimum essential coverage definition. I intend to exercise my discretion as to the recognition of these programs accordingly.

Again, thank you for bringing this to my attention. If you have additional questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Kathleen Sebelius". The signature is written in a cursive, flowing style.

Kathleen Sebelius