United States Senate
WASHINGTON, DC 20510

June 24, 2010

The Honorable Timothy F. Geithner
Secretary of the Treasury
Department of Treasury
Washington, DC 20220

The Honorable Hilda L. Solis
Secretary of Labor
Department of Labor
Washington, DC 20210

The Honorable Kathleen Sebelius
Secretary of Health and Human Services
Department of Health and Human Services
Washington, DC 20201

The Honorable Michael J. Astrue
Commissioner of Social Security
Social Security Administration
Baltimore, MD 21235

Dear Honorable Trustees:

As Congress and the American people await the release of the 2010 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds (the 2010 Medicare Trustees Report), we are writing to request supplementary information in an accompanying document so that the public can accurately assess the impact of the new health care law on the Medicare program

The 2009 Medicare Trustees Report laid out a grim assessment of the financial status of the Medicare program. Fueled by an aging population and rising health care costs, Medicare expenditures, according to that report, would rise from 3.2 percent of Gross Domestic Product (GDP) in 2008 to 11.4 percent of GDP in 2083. The 2009 Trustees Report estimated that Medicare's unfunded liability is $38 trillion over the next 75 years and that its Hospital Insurance (HI) Trust Fund is expected to become insolvent in 2017

For Congress to effectively address the critical challenge of Medicare solvency, it must have a complete and accurate assessment of the program's fiscal position. We would like to request that you provide to Congress, contemporaneous with the release of the 2010 Medicare Trustees Report, a report that addresses the two following issues.

In recent years, the Trustees have noted an important limitation regarding the report's projections for Medicare Part B expenditures from the Supplementary Medical Insurance (SMI) trust fund. While the Trustees' projections are based on the assumption that current law will continue unchanged, the law's scheduled reductions in Part B payments to physicians under the Sustainable Growth Rate (SGR) provisions have not occurred after 2002 – the only time a decrease was allowed to take effect; since 2003 Congress has consistently enacted changes in law to defer the reductions. The 2009 Medicare Trustees Report warned that projections of Part B expenditures under current law (which assumes the deferred large reductions will eventually occur) thus are "likely understated and should be interpreted cautiously."

As a result of this divergence between the unrealistic projections and the level of payments to physicians that Congress actually enacts, the Centers for Medicare & Medicaid Services (CMS) Actuary started producing a supplement to the Trustees Report. The most recent supplemental memorandum, *Projected Medicare Part B Expenditures under Two Illustrative Scenarios with Alternative Physician Payment Updates* (May 12, 2009), contains estimates of a range of Medicare expenditures based on scenarios where Congress prevents the scheduled reductions in physician payments. Relying on the same two illustrative scenarios, an analysis (by former Public Trustee Thomas R. Saving) concluded that, over the next 75 years, Medicare's unfunded liability could be as much as $1.9 trillion more than the Trustees projected in the 2009 report.

We request that the CMS Actuary produce a report similar to the May 12, 2009 supplement, and that, related to the 2010 Medicare Trustees Report, the Trustees provide projections for Medicare's unfunded liability over a 75-year horizon under the two alternative scenarios for physician payments that will be included in the supplement produced by the CMS Actuary.

Our second request relates to an issue raised in the memorandum released by the CMS Actuary on April 22, 2010, titled *Estimated Effects of the "Patient Protection and Affordable Care Act," as Amended, on the Year of Exhaustion for the Part A Trust Fund, Part B Premiums, and Part A and Part B Coinsurance Amounts*. That memo stated the following about the impact of health reform on the HI trust fund for Medicare Part A:

> The combination of lower Part A costs and higher tax revenues results in a lower Federal deficit based on budget accounting rules. However, trust fund accounting considers the same lower expenditures and additional revenues as extending the exhaustion date of the HI trust fund. In practice, the improved HI financing cannot be simultaneously used to finance other Federal outlays (such as coverage expansions under the PPACA) and to extend the trust fund, despite the appearance of this result from the respective accounting conventions.

According to CMS, PPACA contained $575 billion in net Medicare savings, including $63 billion in Medicare payroll tax increases over fiscal years 2010-2019. However, as the Congressional Budget Office (CBO) previously indicated in a letter on December 23, 2009, these dollars cannot both offset new spending under PPACA and then also extend the life of Medicare's HI trust fund. CBO concluded:

> The key point is that savings to the HI trust fund under PPACA would be received by the government only once, so they cannot be set aside to pay for future Medicare spending and, at the same time, pay for current spending on the other parts of the legislation or on other programs.... To describe the full amount of HI trust fund savings as both improving the government's ability to pay future Medicare benefits and financing new spending outside of Medicare would essentially double-count a large share of those savings and thus overstate the improvement in the government's fiscal position.

We request that the Trustees provide a projection for the date of exhaustion for Medicare's HI trust fund assuming that all the estimated Medicare savings under PPACA are not set aside to pay future Medicare benefits but instead are used to finance new spending (outside of Medicare) in the new health care law.

We trust that you will provide a response to our request concurrent with the release of the 2010 Medicare Trustees Report. It is our sincere hope that the Trustees Report will give every American an accurate and complete assessment of the fiscal challenges facing the Medicare program and the federal government. Failure to do so would be a tremendous disservice to the American people and our nation

Sincerely,

Judd Gregg

JUDD GREGG
United States Senator

Orrin G Hatch

ORRIN HATCH
United States Senator

cc: Marilyn Tavenner
Acting Administrator
Centers for Medicare & Medicaid Services
Secretary, Boards of Trustees