September 7, 2007

Dear Representative,

We are writing as the chairpersons of the Consortium for Citizens with Disabilities (CCD) Health and Long Term Services and Supports Task Forces to express our strong support for acceptance of the CHAMP Act in conference, as a well-balanced package that responds to a variety of national problems. We also write to express our support for several specific provisions. The CCD is a coalition of national disability organizations working together to advocate for national public policy that ensures the self determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

As the Congress moves forward to reauthorize the children's health insurance program (CHIP), we applaud efforts by the House and Senate to expand health insurance coverage to low- and moderate-income children. While we congratulate the Senate for the broad base of bipartisan support its bill achieved, we note that H.R. 3162 does more to address serious issues affecting children, seniors, and people with disabilities.

Further, while both the Senate and House-passed bills are fiscally responsible in that the costs are fully paid for, we prefer the House approach because it retains a federal tobacco tax increase which will both generate revenues and improve the public's health and also would eliminate an indefensible overpayment to Medicare Advantage health plans. Notwithstanding the heated rhetoric on this topic and the power of the insurance lobby, we believe that low-income Medicare beneficiaries—including those residing in rural areas—are best served when we protect their access to traditional Medicare and when we minimize their premiums and other out-of-pocket costs.

Our main basis for supporting H.R. 3162 over the Senate-passed Children's Health Insurance Program Reauthorization Act of 2007 (S. 1893) is the inclusion of provisions in the House bill that will make the nation's major public health care programs more fair, effective, and responsive to the needs of all beneficiaries including children, seniors, and people with disabilities. We were troubled by the absence of critical beneficiary improvements for people with disabilities in the Senate bill, especially as these issues demand immediate resolution and in many cases, cost very little. The following are issues of particular importance to the disability community that must be retained in a conference bill:

- **Protect Access to Medicaid Rehabilitation and School-Based Services:** Sections 803 and 814 of H.R. 3162 are essential to maintaining access to rehabilitation services for a variety of Medicaid populations, most especially persons with mental illness and persons with intellectual and other developmental disabilities. Since this bill passed the House, the Bush Administration published a notice of proposed rulemaking that would harm vulnerable Medicaid populations. These provisions are needed to maintain coverage for longstanding day habilitation programs and to prevent for one year the Administration from engaging in rulemaking to restrict rehabilitation and school-based services.

- **Extend Mental Health Parity to CHIP and Medicare Outpatient Services:** Much attention has focused recently on efforts to enact comprehensive mental health parity protections for persons with

private insurance coverage. These protections are even more important for low-income individuals served by public programs. It has been recognized that millions of individuals are harmed by delayed or inadequate access to health care for treatable mental health conditions. Section 121 of H.R. 3162 would require parity for mental health benefits under CHIP benefit plans and Section 203 would eliminate higher cost-sharing in Medicare for outpatient mental health benefits, instead charging 20% cost-sharing that currently applies for most physical health services.

- **Strengthen Medicare Part D Protections for Low-Income and Vulnerable Populations:** Title II of H.R. 3162 would enact several changes that make Medicare prescription drug coverage more fair and accessible to people with disabilities. Many of these provisions are very modest changes with no or very little cost, but which will have a big impact in protecting vulnerable individuals. For example, Section 225 would codify into law a Bush Administration policy that has ensured special coverage policies for 6 drug classes, Section 221 would permit spending by AIDS drug assistance programs (ADAPs) and Indian Health Service programs to count toward catastrophic coverage, and Section 215 would eliminate Part D cost-sharing for dual eligibles in home- and community-based programs, thus extending the same protection that applies to persons in institutions.

Again, we reiterate our support for the overall package of program improvements in H.R. 3162. The table on page three lists the provisions of unique importance to children and adults with disabilities.

We understand that numerous obstacles must be overcome to achieve enactment of health care legislation in 2007, not the least of which is a threatened Presidential veto. Nonetheless, issues of appropriate and adequate health coverage for America's most vulnerable, including low- and moderate-income children, and low-income seniors and people with disabilities are critically important. We urge every member of Congress to unite in adopting legislation not that does as much as possible to extend and strengthen health coverage for needy Americans.

Sincerely,

Kathy McGinley
National Disability Rights Network

Liz Savage
The Arc and UCP Disability Policy Collaboration

Peter Thomas
National Association for the Advancement of Orthotics and Prosthetics

Marty Ford
The Arc and UCP Disability Policy Collaboration

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Key Disability Provisions in H.R. 3162

TITLE I (CHIP)
Section 121 — Ensuring Child-Centered Coverage (including Mental Health Parity): requires mental health parity for CHIP plans and improves access to other services.

TITLE II (Medicare)
Section 201 — Coverage and waiver of cost-sharing for preventive services: establishes new Medicare coverage of a variety of listed preventive services, and eliminates cost-sharing for these services.

Section 203 — Parity for mental health coinsurance: eliminates higher cost-sharing for Medicare outpatient mental health services.

Section 212 — Making QI program permanent and expanding eligibility: creates stability for low-income Medicare beneficiaries who depend on Medicaid to cover Medicare Part B premiums.

Section 213 — Eliminating barrier to enrollment: makes it easier for low-income Medicare beneficiaries to obtain and retain the Part D low-income subsidy.

Section 215 — Elimination of part D cost-sharing for certain non-institutionalized full-benefit dual eligible individuals: eliminates Part D cost-sharing for full-benefit dual eligibles in community settings who, but for the provision of home- and community-based care would require nursing facility care.

Section 217 — Cost-sharing protections for low-income subsidy eligible individuals: caps Part D out-of-pocket costs to 2.5 percent of annual income for individuals with income below 150 percent of the poverty level.

Section 221 — Including costs incurred by AIDS drug assistance programs and Indian Health Service in providing prescription drugs toward the annual out of pocket threshold under Part D: permits these critical gap filling programs to maximize the use of limited discretionary funds.

Section 222 — Permitting mid-year changes in enrollment for formulary changes that adversely impact an enrollee: permits Part D plan enrollees to change plans in the middle of the year if there is a "material" formulary change for a drug they have been prescribed.

Section 223 — Removal of exclusion of benzodiazepines from required coverage under the Medicare prescription drug program: beginning on October 1, 2012 will permit Part D plans to cover benzodiazepines.

Section 225 — Codification of special protections for six protected drug classifications: enacts into law Bush Administration policy requiring Part D plans to cover all or substantially all drugs in 6 key classes.

TITLE IV (Medicare)
Section 401 — Equalizing payments between Medicare Advantage plans and fee-for-service Medicare: phases out the overpayment for Medicare Advantage plans.

TITLE V (Medicare)
Section 502 — Payment for inpatient rehabilitation facility (IRF) services: freezes implementation of the 75% rule at 60%, and allows co-morbidities to help meet the target percentage**.**

TITLE VIII (Medicaid)
Section 803 — Authority to continue providing adult day health services approved under a State Medicaid Plan: maintains current policy that permits certain states to operate day habilitation programs for persons with developmental disabilities.

Section 804 — State option to protect community spouses of individuals with disabilities: clarifies that states can continue extending spousal impoverishment protections to community spouses of medically needy individuals.

Section 814 — Moratorium on certain payment restrictions: imposes a one year moratorium to prevent issuance of new rules or policies related to Medicaid rehabilitation or school-based services.