Dear Secretary Sebelius and Administrator Berwick:

We write today to reaffirm congressional intent for the Patient Protection and Affordable Care Act (PPACA) “maintenance of effort” (MOE) provision. It is imperative that this language is enforced to the strict standard intended by Congress and that is made clear that waiving this section is not permitted unless the waiver request meets the explicit nonapplication requirements.

The MOE requirement was written to maintain Medicaid and Children’s Health Insurance Program (CHIP) eligibility standards until the state exchanges are fully operational. The provision protects these programs from short-sighted attempts to slash or eliminate them. The recession has taken a heavy toll on our society and has caused the very safety net programs we rely on as Americans to be overwhelmed. However, slashing the programs that have prevented further societal hardships would be a mistake. It would cause the states to suffer even more through loss of federal matching funds and loss of jobs in the health sector and beyond.

When writing the MOE section, Congress took into account the current unprecedented economic hardship many states are facing by including a nonapplication provision for the MOE. States are already provided with the opportunity to apply for an exemption from the MOE in extreme circumstances. The nonapplication provision allows states to be exempted from the MOE provision if: 1) the state submits a certification to the Secretary that it has a budget deficit 2) it applies to adults who are not eligible for coverage on the basis of pregnancy or disability and 3) whose incomes are above 133% of FPL. If a state meets these requirements, only then may they apply for a waiver.

In good times and bad, working and middle class Americans should be able to count on health care for their families and dignity in old age. The MOE requirement ensures the continued success of these programs and was written deliberately and explicitly to protect our vulnerable, disabled, children and senior citizens. A waiver from the MOE should only be granted if the nonapplication requirements are met.

Sincerely,
Silvestre Reyes
Member of Congress

Louise Slaughter
Member of Congress

Ed Towns
Member of Congress

Maxine Waters
Member of Congress

Frederica Wilson
Member of Congress

Terri A. Sewell
Member of Congress

Pete Stark
Member of Congress

Bennie G. Thompson
Member of Congress

Mel Watt
Member of Congress

Lynn Woolsey
Member of Congress