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ONE HUNDRED NINTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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May 18, 2005

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The Honorable Michael O. Leavitt
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Leavitt:

I am concerned about the growing problem of U.S. tax dollars being spent to reimburse Medicare and Medicaid services outsourced to foreign countries. In a recent news article published in the *Washington Post* (April 24, 2005) entitled "Hospital Services Performed Overseas," it revealed that a growing number of U.S. providers were using overseas establishments (in this case, India) to analyze imaging tests performed in the United States. It is important for our economy and job growth that tax dollars spent through the two largest public healthcare programs in the U.S. stay in our country.

It is my understanding that as with any physician service, Medicare and Medicaid does not pay for services provided overseas, including physician interpretation services provided outside the U.S. (with limited emergency exceptions). The interpretation service performed by a radiologist is billed based upon where the service is provided. For example, under Medicare, if the radiologist interprets the x-ray or other imaging service in Illinois, then the service would be billed to the Illinois Medicare carrier. Therefore, a service provided overseas cannot be billed to Medicare.

I am concerned that medical services may be performed in foreign countries and reimbursed by Medicare or Medicaid without our knowledge. The *Washington Post* article identifies Wipro Infotech, a large company in India that provides a variety of services, including the radiology services potentially for Medicare and Medicaid patients, to U.S. hospitals. This is done through the use of "ghosting," a practice where a licensed or non-U.S. licensed radiologist provides a "preliminary" interpretation of an image that is subsequently reviewed or approved by a U.S. doctor. This U.S. doctor then submits the bill for the radiological reading to Medicare or Medicaid despite the fact that much of the work was done abroad. Medicare or Medicaid pays

the U.S. provider based upon the local rates, despite the fact that it may have cost the provider significantly less money to have the medical service performed in a foreign country.

These practices are worrisome on three levels. First, preliminary readings may be prepared by less-qualified technicians than is required under U.S. law. Second, providers may be pocketing the difference in costs of providing the Medicare or Medicaid service in this country versus having it provided by foreign labor. Third, it is contrary to the intent of the law that services be provided by American workers.

Because of these concerns, I request that you respond to the following questions by no later than Tuesday, May 31, 2005:

1. Please verify whether Medicare and Medicaid allows for the reimbursement of medical services performed overseas. Are payments prohibited under statute or regulation? If so, please cite statute or regulation. If not, has the Administration considered any such prohibitions?
2. Please verify whether Medicare or Medicaid allows providers to subcontract the performance of medical and administrative services to foreign countries.
3. Does the Centers for Medicare and Medicaid Services (CMS) allow for the reimbursement of medical services under Medicare and Medicaid where there is "ghosting"?
4. To what extent is outsourcing to foreign countries and "ghosting" occurring in Medicare and Medicaid?
5. What checks does CMS have in place to identify whether a service was first provided overseas and is simply being reviewed in the U.S. and billed to Medicare or Medicaid? Is there a difference in billing amount for an initial read of an x-ray versus a secondary read?
6. Does CMS have any mechanism to ensure services provided in foreign countries meet Medicare and/or Medicaid program standards? Does CMS have the authority to audit claims to see whether services were provided by legitimate providers and, if so, does CMS audit these claims?
7. The Joint Commission on Accreditation of Health Care Organizations (JCAHO) is upgrading its standards for accrediting hospitals in response to the outsourcing trend. How closely are you working with them on these standards? Can CMS through JCAHO ensure adherence to any new standard?

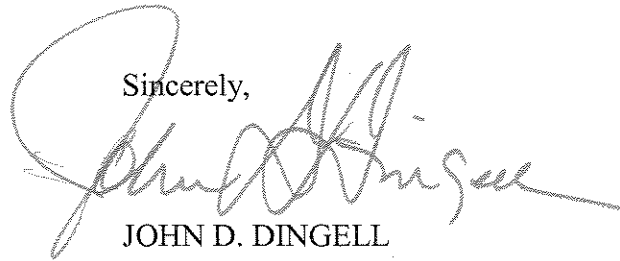
The Honorable Michael O. Leavitt

Page 3

8. Can a physician or radiologist residing in a foreign country be held liable when something goes wrong to a patient in the U.S.? Can CMS take any sanctions against an overseas provider or the U.S. provider using overseas services? Has any such action been taken?
9. How does CMS ensure overseas facilities meet HIPAA privacy protections?

I appreciate your prompt attention to this matter and look forward to your response. If you need further information regarding this request, please contact me or have your staff contact Purvee Kempf, Minority Counsel to the Committee on Energy and Commerce, at (202) 226-3400.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Dingell", written over a large, light-colored circular scribble.

JOHN D. DINGELL
RANKING MEMBER

cc: The Honorable Joe Barton, Chairman
Committee on Energy and Commerce

The Honorable Nathan Deal, Chairman
Subcommittee on Health

The Honorable Sherrod Brown, Ranking Member
Subcommittee on Health