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Press_Office@finance-rep.senate.gov

Opening Statement of Charles E. Grassley
Hearing, “Selling to Seniors: The Need for Accountability and Oversight of Marketing and Sales
by Medicare Private Plans (Part 1)”
Thursday, Feb. 7, 2008

I appreciate all of you being here today to help us understand how Medicare private plans are being sold. In Iowa this past December, some of my constituents found that they had been sold a Medicare Advantage plan that their doctors did not take. It was a private fee-for-service plan, so there was no list of preferred doctors.

I have heard from some people that the salesman told them all the doctors took the plan. That’s not right and the agent shouldn’t have said that. The agent may not have intended to mislead my constituents. But they ended up in a plan that did not work for them. It made me wonder about the agent’s training and incentives.

In a case in New York, an agent sold a plan outside its service area. Maybe he strayed over a county line without noticing. But it was a big problem for the people who bought the plan. Both the family and Medicare ended up very confused some months later when it was entirely unclear how they were covered – whether they were covered by the plan they shouldn’t have enrolled in or original Medicare. Despite the ordeal caused by the agent, he was never disciplined.

I am hearing that seniors who are perfectly happy with their health coverage are getting a hard sell to change plans each year. I am hearing stories about agents visiting the homes of elderly people sick with flu and insisting on enrolling them in a private Medicare plan. I am hearing that health plans are buying beneficiaries lunches and dinners as part of the sales pitch. Some people feel obliged to enroll as a result. And I am hearing that seniors who asked for Medigap coverage have ended up in a Medicare Advantage plan. They are stunned to find out -- usually about the time they receive bills for cost-sharing they thought Medigap covered.

Now some of this may be the result of Medicare beneficiaries not examining their choices carefully. And these are anecdotes that implicate only a few of the many agents and plans working with Medicare beneficiaries on their plan options. Nonetheless, it appears that some Medicare beneficiaries were subject to abusive sales practices just months ago.

There were a number of shocking stories in 2006 about Medicare Advantage and Part D plans' sales activities. While I am a proponent of Medicare choices, it was clear this was an area that needed close scrutiny. As a result of these startup problems in 2006, CMS clarified its policies. It has continued to tighten up sales requirements for plans. And anecdotal evidence suggests that the worst of the abuses may have ended. And I commend CMS for taking those decisive steps.

But there are some areas that CMS did not address. Commissions, for example, continue to give agents the wrong incentives. I have here an ad that was posted on Craigslist, on the Internet, a few days ago. It's an ad for agents to "sign up" seniors to the Medicare Advantage program. Let me quote it:

"I am part of a National Agent Team whose mission is to sign up 'eligible' seniors to the Medicare Advantage program. Notice that I didn't say, 'sell,' I said 'sign-up.'"

"That's because the beauty of this opportunity is that it doesn't cost the recipient anything additional . . . All they do is receive additional benefits to their existing Medicare program. It's really NOT a sale! It's a 'presentation'. They sign up and you get the commission. . . it's at least \$200 . . . and up! The visit can take as little as 45 minutes . . . so you do the math!"

"This is NOT a joke or a game. There are agents making a great living right now!"

The ad gives a link to express interest in selling MA plans. Mr. Chairman, I would ask consent to insert a copy of this ad into the record. This ad tells me that something is wrong with how the agents, and perhaps the plans, are looking at Medicare Advantage. We know that many seniors need personal counseling to help them pick a plan. They rely on their children and counselors, but also on their insurance agents. They rely on the agents to help them pick the plan that is best for them. I have no doubt that many of the agents are doing just that. I have had calls from agents who refused to sell certain products that they considered sub-standard.

But that ad makes it clear that not everyone out there is acting with the beneficiary's best interests in mind. I've heard from insurance agents that some plans' commission structures were providing excessive incentives to urge seniors to switch plans each year. Some plans pay a commission on each signed application an agent submits. One of today's witnesses never signed a form, but ended up enrolled.

The plans themselves have told me they wish someone would intervene to regulate commissions. When one plan is paying half or a third the commission of another, it seems to me the agent will recommend the other plan.

Another problem is that some agents tell beneficiaries that they are from Medicare. Or they say that they need to meet with the beneficiary to explain Medicare's new benefits. This is a violation of the federal regulations. But it continues to happen.

Door-to-door sales are barred in Medicare. Cold calling is not. And an agent may visit if a beneficiary has indicated interest in meeting with an agent. You can see how a senior might agree to a meeting just to get an agent to stop calling.

CMS has tried to get a handle on these abusive sales activities. Last summer, it suspended marketing by seven private fee-for-service plans until they instituted key reforms, such as improved agent and broker training. As recently as December, CMS suspended sales and enrollment by an MA plan with overly aggressive tactics.

The states agree that they have authority over the actions of insurance agents. Yet, they complain that they lack the authority to hold the Medicare Advantage plans accountable when there is a pattern of abusive sales practices. They also say that CMS lacks the experience and the staff to oversee plan sales activities.

So a key question is whether the current CMS guidance and enforcement actions are adequate to protect beneficiaries from abusive sales tactics.

While we will not hear from CMS Administrator Kerry Weems until next week, today's witnesses should shed some light on private plan marketing and sales in Medicare. I look forward to hearing from them.