

For Immediate Release  
Friday, July 25, 2008

Grassley works to protect Medicare dollars, empower patients with information

WASHINGTON --- Senator Chuck Grassley today introduced legislation to bring transparency to physician self-referrals for imaging services in the Medicare program.

“Technology has made great advances in imaging services in recent years, and improvements in imaging hold a lot of promise for earlier and more accurate diagnoses of life-threatening diseases which often may lead to improved outcomes for patients,” Grassley said. “At the same time, Medicare policy needs to do more to help control the potential for overutilization of imaging services.”

Grassley said he based his legislation on recommendations from the widely respected Medicare Payment Advisory Commission to limit physicians’ financial incentives to order imaging services. Last month, the independent Government Accountability Office reported that Medicare Part B spending for imaging services more than doubled between 2000 and 2006, to \$14.11 billion, and that the percentage of Medicare spending on imaging services provided in physician offices grew substantially.

The Medicare Imaging Disclosure Sunshine Act of 2008 would require referring physicians at the time of referral to disclose their ownership interest in imaging services, including MRIs, CT scans, PET and other radiology services, and provide beneficiaries with a list of alternative providers.

Grassley said that “patients would be able to access to imaging services the same way they can now, but they’d also have information about financial relationships in a way that’s neither onerous nor overly prescriptive.” Grassley included an imaging disclosure provision in the Medicare bill he introduced in June. A provision also was included in an agreement that Grassley and Senator Max Baucus, Chairman of the Committee on Finance, had reached on Medicare legislation this summer. But the provision was dropped from Democratic leadership’s Medicare bill that became law in July.

Grassley is the Ranking Member of the Committee on Finance, which is responsible for Medicare legislation. He has long led campaigns to bring greater transparency to government and other areas where federal tax dollars are spent, including the federal bureaucracy and courtrooms, medical practice and research, and the legislative process and spending by Congress.

A summary of the Medicare Imaging Disclosure Sunshine Act is below, along with the text of Grassley’s floor statement marking introduction of the legislation.

Summary of the Medicare Imaging Disclosure Sunshine Act of 2008

The Ethics in Patient Referrals Act (the Stark law) prohibits physicians from referring Medicare patients for certain services to providers with which the physician has a financial relationship and prohibits those entities from submitting claims for services provided to patients referred by those physicians with a financial relationship. The law applies to a set of “designated health services” which includes imaging services such as MRI and CT scans. Certain services provided in the physician’s office are exempted from the statute through the “in-office ancillary services” exception so physicians can provide radiology services in their offices or facilities and bill Medicare if conditions determined by the Secretary of Health and Human Services are met.

The Medicare Imaging Disclosure Sunshine Act would amend the in-office ancillary services exception to the physician self-referral prohibitions under Stark to require that physicians disclose their financial interest in certain imaging services provided through the in-office ancillary services exception, including magnetic resonance imaging, computed tomography, positron emission tomography, and other radiology “designated health services” that the Secretary determines appropriate.

The referring physician would be required to inform the individual in writing at the time of referral that the individual could obtain services from another person. The referring physician would also be required to provide the individual with a list of suppliers in the area in which the individual resides. The requirement would be effective January 1, 2010.

Floor Statement of U.S. Senator Chuck Grassley of Iowa  
Ranking Member of the Committee on Finance  
Introduction of the Medicare Imaging Disclosure Sunshine Act of 2008  
Friday, July 25, 2008

Mr. President, I am pleased today to introduce the Medicare Imaging Disclosure Sunshine Act of 2008.

I agreed to a short-term Medicare extension bill last December with the understanding that this would give us the opportunity to include other priorities in a bipartisan Medicare package this year. One of the significant issues I had hoped to address was the lack of transparency in physician self-referrals for imaging services in the Medicare program.

The recently-enacted Medicare bill requires accreditation for providers of the technical component of advanced diagnostic imaging services such as magnetic resonance imaging (MRI), computed tomography (CT) scans, and positron emission tomography (PET), and it establishes a demonstration project to assess appropriate physician use of these services. However, Mr. President, the legislation regrettably fails to address an issue that has contributed significantly to the rapid growth in Medicare spending for imaging services: physician self-referrals for imaging services in their offices and in facilities where they own or lease advanced imaging equipment. According to a June 2008 report of the Government Accountability Office (GAO),

Medicare Part B spending for imaging services more than doubled in six years, growing from \$6.89 billion in 2000 to \$14.11 billion in 2006. During this time, the percentage of Medicare spending on imaging services provided in physician offices grew from 58 percent (about \$4 billion) in 2000 to 64 percent (about \$9 billion) in 2006. Spending on advanced imaging services, such as MRIs, CT scans, and nuclear medicine, also grew substantially faster than other imaging services.

Beneficiaries need more transparency and disclosure of potential conflicts of interest when physicians write referrals for imaging services. An imaging disclosure provision was included in the Medicare bill that I introduced in June, and it was included in the agreement that Senator Baucus and I reached for this year's Medicare bill. The provision was not onerous nor was it overly proscriptive: it merely required referring physicians to disclose any conflict of interest related to their ownership of advanced imaging facilities or equipment. Patients still would be free to choose their physicians' imaging facility or equipment or to go elsewhere. Unfortunately, Mr. President, the imaging disclosure provision was dropped from the Medicare bill that Congress enacted once the process became partisan.

It is for this reason that I am introducing this bill. The Medicare Imaging Disclosure Sunshine Act does just what the name implies: it requires referring physicians to shed some light on their relationship to imaging facilities and equipment they own by disclosing that ownership interest and providing beneficiaries with a list of alternative providers. The referring physician is required to inform the individual in writing at the time of referral that he or she can obtain imaging services elsewhere if they choose to do so and to provide a list of imaging suppliers located where the individual resides. The imaging services covered by the requirement include MRIs, CT scans, PET, and other radiology services specified as designated health services that the Secretary of Health and Human Services determines appropriate. The requirement would be effective in January 2010.

Mr. President, technology has made great advances in imaging services in recent years, and improvements in imaging hold much promise for earlier and more accurate diagnoses of life-threatening diseases which often may lead to improved outcomes for patients. But we must do more to help control the potential for overutilization of imaging services. The Medicare Payment Advisory Commission, or MedPAC, and others have expressed serious concerns that the sizeable growth in the volume of imaging services needs to be addressed. In March 2005, MedPAC recommended that the Secretary of HHS establish standards for providers of diagnostic imaging services and measure physicians' use of imaging services with their peers. Those recommendations were addressed to some degree in the Medicare bill that Congress enacted. However, another key MedPAC recommendation -- that the Secretary of HHS strengthen the rules limiting physicians' financial incentives to order imaging services -- unfortunately was ignored.

The June 2008 GAO Report noted that physicians in specialties other than radiology generated an increasing share of revenue from in-office imaging services from 2000 to 2006. They also found that in-office imaging spending per beneficiary, like other

Medicare spending, varied widely across geographic regions of the country. By 2006, in-office imaging spending per beneficiary varied from \$62 in Vermont to \$472 in Florida, nearly eight times as much. This raises additional concerns about overuse since research on geographic variations on health care spending shows that, generally, providing more services does not lead to improved health care outcomes. In GAO's view, the shift in imaging services from hospital settings to physician offices has the potential to encourage overuse in light of the financial incentives that exist for physicians to supplement lower professional fees for interpreting imaging tests with relatively higher fees for performing the tests. They concluded that physician ownership of imaging equipment is a way to generate additional revenue for a practice.

The Medicare Imaging Disclosure Sunshine Act will provide another necessary tool to address the significant increase in Medicare spending for in-office imaging services by providing more transparency and shedding some light on physician referrals to facilities and medical imaging equipment they own. I urge my colleagues to support this legislation. Thank you, Mr. President. I yield the floor.