

**SENATOR CARL LEVIN (D-MICH)**  
**BEFORE THE**  
**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**  
**ON**  
**MEDICARE PROVIDERS WHO CHEAT ON THEIR TAXES**  
**AND WHAT SHOULD BE DONE ABOUT IT**

March 20, 2007

This afternoon we look at a troubling anomaly – one of our nation’s most important programs, Medicare, a program which is indispensable to the health of our citizens, is also a source of significant abuse. While the vast majority of health care providers are honest, tax paying citizens, the focus of today’s hearing is on those health care providers who are getting paid with taxpayer dollars under the Medicare program, while at the same time failing to pay their taxes. While stuffing taxpayer dollars in their pockets, they are stiffing Uncle Sam by not paying their taxes.

Federal programs exist to stop this type of abuse. One key program is the Federal Payment Levy Program, which was established about ten years ago to enable the federal government to identify federal payments being made to tax deadbeats, and authorize the withholding of a portion of those taxpayer dollars to apply to the person’s tax debt.

For the last four years, under the leadership of Senator Coleman, this Subcommittee has been involved in an intensive effort to strengthen the tax levy program in order to withhold funds from federal payments made to federal contractors who don’t pay their taxes. Past hearings have exposed the fact that there are 27,000 defense contractors with \$3 billion in unpaid taxes; 33,000 contractors with other federal agencies who owe \$3.3 billion in unpaid tax debt; and 3,800 GSA contractors with \$1.4 billion in unpaid tax debt. Those mind boggling numbers represent tens of thousands of companies putting their hand in the taxpayer’s wallet, while dodging billions of dollars of tax obligations. To stop this flagrant disregard of tax fairness, the Subcommittee has worked hard to identify and fix the many technical problems and red tape that have hindered the government’s ability to withhold money from contract payments to apply to contractors’ tax debt.

Today’s hearing highlights still another group of tax dodging federal contractors taking advantage of honest taxpayers. A study prepared by the Government Accountability Office (GAO) at the request of the Subcommittee shows that 21,000 Medicare Part B health care providers, including doctors, ambulance companies, and medical laboratories, collectively owe about \$1 billion in delinquent taxes. Together, they represent about 5% of all Medicare service providers.

One of the examples we will hear about today is a doctor who collected over \$1 million in taxpayer dollars from Medicare last year, while owing a million in back taxes. Instead of paying his taxes, he chose to purchase a million dollar house, a pleasure boat, and several night clubs. In another example, a doctor owes more than \$400,000 in back taxes, collected more than \$100,000 in Medicare payments last year, and engaged in millions of dollars of gambling

transactions rather than getting right with the government. In its report, GAO identifies about 40 such tax dodgers who each received \$100,000 or more in Medicare service provider payments.

The key federal agency that oversees federal Medicare payments is the Center for Medicare and Medicaid Services, or CMS. CMS sends its payments on Medicare Parts C and D to the Treasury Department for disbursement, and these payments are processed through the federal tax levy program. But for over five years, CMS has failed to implement the levy program for Medicare Parts A and B, approving countless Medicare payments to countless medical service providers who owe taxes, while failing to hold back money owed the government for delinquent taxes. When asked by the Subcommittee why it declined to implement the tax levy program for Part B, CMS explained that its lawyers' thought the statute did not obligate it to participate. CMS does not make Part B Medicare payments directly to its service providers, but to intermediaries who then make the actual payments. CMS apparently thought this payment system might be too complex for the tax levy system to handle. It is not, and the Subcommittee is glad to see that CMS has now had a change of heart and agreed to set up procedures to enable these Medicare payments to be screened for possible tax debt. Given the 21,000 tax delinquents on Medicare Part B provider rolls, it is long past time for CMS to join the government-wide tax levy effort.

The tax levy program CMS will be joining is much improved since the Subcommittee's first hearing in 2004. One key advance has been the formation of a government-wide, interagency task force to tackle tax levy problems. Since its formation in 2004, this task force has worked with the Subcommittee to resolve a host of technical issues to improve tax levy collections from federal contractors. These improvements include ensuring accurate Taxpayer Identification Numbers in the federal contractor registration database, eliminating a requirement for an IRS agent to be assigned to a tax delinquent contractor before a tax levy could be imposed, and issuing earlier tax levy notices to federal contractors to ensure their contract payments are eligible for levy. As a result of these and other improvements, tax levy collections have more than doubled over the past three years, going from \$136 million in 2004 to nearly \$340 million in 2006. Of these totals, tax levy collections from federal contractors have also more than doubled, going from \$28 million to \$62 million.

But much more needs to be done. With respect to the Medicare program, CMS has taken the first step by agreeing to set up procedures to screen Medicare Part B payments. Another step would be for CMS to screen payments made under other parts of the Medicare program.

A third pressing problem in the Medicare program results from the standard practice of doctors and other medical professionals of conducting their medical practices through a small corporation or limited liability company. The problem arises from the fact that the professional typically has a personal Taxpayer Identification Number, known as a TIN, that is different from the TIN held by their company. Moreover, current tax rules allow individuals to treat the income earned by such small businesses as either corporate income that gets separately taxed or as partnership income that is attributed to the company owners and individually taxed. Because

many professionals choose to report income under their personal TINs, if they fail to pay taxes they can easily circumvent the tax levy process, because the individual will appear on the IRS list of tax delinquents under one TIN, while his or her company will appear on the CMS payment list under a different TIN. There won't be a computer match between the IRS and CMS databases, and the IRS will be unable to levy the Medicare payments.

To fix this problem, CMS could require doctors and other professionals to supply both their individual TINs and the TINs of the companies that receive Medicare payments on their behalf. CMS could also require companies, as a condition of participation, to agree to make their Medicare payments subject to tax levies for member physicians or company owners who accrue those payments as personal income. The IRS also needs to change its regulations to allow this type of tax levy. If that change in regulations isn't made, it would be necessary to change the law to allow this type of business income to be seized and levied to satisfy the tax debt of member doctors and company owners.

Additional work also is needed to strengthen the tax levy program as a whole. Right now, for a variety of legal and technical reasons, only 45 percent of the tax debt assessed but still uncollected in 2006 was actually made subject to levy under the federal program. While this percentage is up from 34% in 2004, the data shows that, in 2006, over half of this assessed tax debt – some \$67 billion – was never “turned on” for actual collection under the tax levy program. \$67 billion is a big number, even by Washington standards. More can and should be done to make all of this tax debt subject to levy.

The vast majority of Medicare providers render valuable services, and they pay their taxes. These honest health care providers are put at a competitive disadvantage by the Medicare tax cheats. Besides hurting honest businesses, this type of tax dodging hurts our country by undermining the fairness of our tax system and by forcing honest taxpayers to make up the shortfall needed to pay for basic federal protections – like health care. When these tax delinquents also receive large payments of federal funds, it adds insult to injury. We must force these tax dodgers to pay their tax debt, and a key tool is to subject any federal payments they receive to an effective tax levy program.

Senator Coleman, I again commend you for your leadership and sustained effort on this important issue. I look forward to the testimony today.

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