

Opening Statement
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Hearing On
Medicare Vulnerabilities: Payments for Claims Tied to Deceased Doctors
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AS PREPARED

Good morning and welcome to today's hearing. At the outset, I would like to thank Senator Levin for his support throughout this investigation. Like all PSI investigations, this has been a bipartisan effort every step of the way.

This morning, we turn our attention to a familiar topic – Medicare fraud and abuse. I want to be clear from the beginning: Medicare is a noble program that provides health insurance for the elderly and the disabled – it's a genuine blessing for many of America's most vulnerable citizens.

But the program has been plagued by persistent and pervasive fraud and abuse. For almost 20 years, the Government Accountability Office has consistently designated the Medicare program as "high risk" because of its vulnerability to mismanagement and improper payments. According to its own reports, Medicare made improper payments in 2004 and 2005 amounting to roughly \$34 billion. That's the size of the entire Minnesota State Budget general fund – *wasted* on improper payments.

One Harvard professor estimated that fraud and abuse could consume about 15 to 20 percent of the Medicare budget. That would be more than \$70 billion in 2008 alone. Let's remember that these billions and billions are tax-dollars paid by hard-working Americans.

In keeping with our long tradition of government oversight, the Subcommittee spent the past year examining the Medicare program. Our bipartisan inquiry ultimately zeroed in on abuses in payments for durable medical equipment or "DME."

In short, the Subcommittee's investigation uncovered some appalling facts. The Subcommittee found that, between 2000 and 2007, Medicare paid for hundreds of thousands of DME claims in which the prescribing doctor had died years earlier. The estimated payments for those claims could be up to \$100 million. The evidence also establishes certain links to fraudulent activity, which we will examine shortly. Clearly, we have a problem.

Although the jargon can get confusing, here is the big picture: Medicare regulations require that DME claims contain certain information in order to qualify for payment, including valid identification numbers for the patient, the DME supplier, and the prescribing doctor. The doctor's ID number was called the Unique Physician Identification Number or the "UPIN".

The bottom line is that Medicare paid tens of millions of dollars – and possibly up to \$100 million – on claims that contained the UPINs of doctors who died long before the claims were

filed. For hundreds of thousands of claims, the doctors had passed away five, ten, or even fifteen years beforehand.

To get a sense of the problem, let's review a few alarming cases:

- Take, for instance, the case of the doctor in Florida who passed away in 1999. The Subcommittee discovered that scam artists used this physician's identification number years after he died to defraud the Medicare system, to the tune of hundreds of thousands of dollars – and possibly up to half a million dollars. At least three different companies used this doctor's ID number, filing claims using his ID number six, seven, or eight years after the doctor died. Two of the culprits have been convicted of healthcare fraud and the other companies were cited by state health agencies for violations. All together, the Subcommittee identified at least \$350,000 paid by Medicare to these fraudulent actors for claims containing the ID number of this one doctor alone.
- Another doctor passed away in 2001 and his UPIN was used in more than 3,800 claims submitted between 2002 and 2007. The total payments for these claims amounted to more than \$354,000.
- The UPIN of another physician – who died before 1999 – was listed in more than 2,000 claims submitted up to eight years after he died. These claims resulted in Medicare payments of more than \$478,000.

What's even more alarming is these problems are not new. In fact, CMS had been notified of these issues several years ago. In November 2001, the Inspector General of the Department of Health and Human Services reported that Medicare had paid tens of millions of dollars for claims with invalid and inactive UPINs. The IG urged CMS to make changes to ensure that claims with flawed UPINs would be rejected.

CMS agreed with these recommendations and promised to do better. CMS stated that claims with UPINs of deceased doctors would not be paid starting April 1, 2002. CMS attempted to fix the problems in 2002, instituting several procedures designed to ensure that DME claims with UPINs of deceased physicians would be rejected.

The Subcommittee's investigation, however, establishes that those changes did not work. For instance, even though CMS's new procedures were supposed to reject claims with UPINs of dead doctors starting on April 1, 2002, the evidence obtained by the Subcommittee reveals that an estimated 63 percent of the improper payments occurred *after* that date.

Similarly, CMS required that the UPIN database must be updated every 15 months and the UPINs of dead doctors must be deactivated. Yet the evidence indicates that the UPINs of thousands of physicians remained active, even though they passed away long ago. For instance, the Subcommittee estimates that the UPINs of thousands of doctors who passed away in the 1990s were still active as of this past May.

It is clear that the claims review process has not worked properly. Medicare has not made sure that dead doctors are removed from the system and that claims linked to those doctors are rejected. This is simply unacceptable – making sure that the prescribing doctor is alive before paying a claim should be a no-brainer. These errors leave Medicare – and therefore American taxpayers – vulnerable to fraud. These problems must be fixed and they must be fixed now.

So the question is how do we clean up the system? The good news is that we have a unique opportunity right now to address the problem. Medicare has recently replaced the old UPINs with a new numbering system called the National Provider Identifier or the “NPI.” So there is a golden opportunity here to make sure that the problems are fixed at an early stage, and make sure that the improper payments that plagued the UPINs will not recur with NPIs.

Not only should we fix the system to prevent improper payments, but our law enforcement agencies should also go after the fraudulent actors who steal from all of us using false information. They are literally exploiting the demise of honorable physicians to rip off the American people and they should be prosecuted. I call on the HHS Inspector General, DOJ, and CMS to ratchet up their efforts to root out and prosecute these scam artists. As a former prosecutor, I know the threat of prosecution is a powerful deterrent.

We simply cannot afford \$100 million loopholes – especially not now. From energy and education to homeland security and housing, the challenges confronting America today are in many ways unprecedented. And it will require an unprecedented level of fiscal discipline and political leadership to overcome them.

I will close by saying that, almost every day, my staff and I learn of a deserving Minnesota senior that is having a problem with Medicare coverage. If we want to look them in the eye and say we are trying to fix their problem, Job #1 must be attacking Medicare fraud, waste, and abuse so those precious tax dollars go to the noble use for which they are intended.

We have a special responsibility to preserve the integrity of a vital service to the nation’s elderly and disabled, and I am confident that CMS will be a productive and willing partner in that effort. I look forward to discussing with each of today’s witnesses how we can work together to ensure that Medicare accomplishes its noble goals, while protecting American tax-dollars from fraud, waste, and abuse.

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