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Opening Statement of Rep. Henry A. Waxman Chairman, Committee on Oversight and Government Reform The Medicare Drug Benefit: Are Private Insurers Getting Good Discounts for the Taxpayer? July 24, 2008

Today the Committee is holding another hearing in our series on how to make government work better. Our subject is the Medicare Part D program that provides a prescription drug benefit to seniors and individuals with disabilities.

Providing drug coverage to seniors and the disabled is essential. But it is also expensive. Over the next decade, the benefit will cost taxpayers hundreds of billions of dollars. We need to make sure this money is spent responsibly and with good value for the taxpayer.

This Committee has been investigating Medicare Part D for 18 months. During our investigation, we have conducted the only in depth oversight of the Part D program. GAO and the Congressional Budget Office (CBO) have been unable to review how well the program is working because the Centers for Medicare and Medicaid Services (CMS) won't give them the data. And CMS, which does have access to the data, refuses to acknowledge fundamental flaws in the program.

Last October, I and other members of the Committee released a staff report that examined the administrative costs of Medicare Part D. We found that the private insurers that deliver the Medicare drug benefit are charging taxpayers and beneficiaries \$4.6 billion in administrative costs annually. In percentage terms, that's over six times more than it costs to run traditional Medicare.

And we found that the Part D program is exceptionally lucrative for the private health insurers. They made a billion dollars in profits last year alone.

Today I am joining with ten of my colleagues on the Committee to release a new staff report, which I ask be made part of today's hearing record. Last year's report looked at the profits of the private insurers. Today's report examines the windfall revenues of the drug manufacturers.

In this report, we compared the prices that the drug companies charge the new Medicare Part D program with the prices that the companies charge Medicaid. What we discovered is that the taxpayers are paying far more for drugs under Medicare Part D than they do under Medicaid.

In effect, Medicare Part D has given the major drug companies a taxpayer-funded windfall worth billions of dollars.

Our report focuses on the costs to the taxpayer of providing drugs to the six million beneficiaries who are enrolled in both Medicare and Medicaid. These are Americans who are old or disabled enough to qualify for Medicare and poor enough to qualify for Medicaid. They are often the oldest and sickest Medicare beneficiaries, and their drug coverage is almost fully subsidized by federal taxpayers. These dual eligible beneficiaries account for about half of all drug spending in the Part D program.

The multi-billion dollar windfall is the result of a provision in the Medicare Part D law that switched drug coverage for the dual eligibles from Medicaid to Medicare Part D. The transfer took effect two years ago. Since then, the drug manufacturers have been paid billions more for the drugs used by the dual eligible beneficiaries than they would have been paid if the dual eligibles had continued to receive their drug coverage through Medicaid.

Under Medicare Part D, the six million dual eligible beneficiaries can take the same drugs they got under Medicaid. The only difference is that the federal taxpayer is now paying 30% more. Add it up, and it amounts to a drug manufacturer windfall worth at least \$3.7 billion dollars in just the first two years of the Part D program.

In fact, the actual windfall could be worth billions more if all drugs used by dual eligible beneficiaries were taken into account.

Let me describe some examples. Johnson and Johnson earned over \$500 million in additional profits, much of it from just one drug, the anti-psychotic medication Risperdal. Bristol Myers earned a windfall of almost \$400 million, thanks to higher prices for the stroke medication Plavix.

This is an enormous giveaway. And it has absolutely no justification. The drug companies are making the same drugs. They are being used by the same beneficiaries. Yet because the drugs are being bought through Medicare Part D instead of Medicaid, the prices paid by the taxpayers have ballooned by billions of dollars.

The privatization of Medicare Part D is a great deal for the drug companies. And it's a great deal for the private insurers. It's the taxpayers who are taking it on the chin.

The circumstances that led to passage of the Medicare Part D law were controversial. The chairman of the House committee that wrote the Part D law now runs PhRMA, the drug manufacturer's trade association. The Administration's top negotiator left the government to lobby for health insurers and drug companies. There were allegations of threats and arm-twisting on the House floor.

But that is not the focus of today's hearing.

The Medicare drug benefit is providing real help to seniors and the disabled, and it's going to be a part of our healthcare landscape for years to come. The key question for us is how we can fix the program so that more of the benefit goes to seniors and the disabled — and less winds up in the pockets of the drug companies and insurers.

Medicaid is one proven model for how the government can use its purchasing power to ensure that it gets low prices. Medicaid is a voluntary program. No drug manufacturers are required to participate. Medicaid gets its low prices by making discounts a condition of manufacturer participation. The program says that if manufacturers want to sell their drugs to Medicaid beneficiaries, they have to offer Medicaid their lowest prices. The manufacturers also have to agree to protect the taxpayer from price increases that exceed the rate of inflation.

We have well over a decade of operational experience with the Medicaid rebate. It works. It delivers \$10 billion annually in savings to the federal and state governments.

In many ways, this is the exact opposite of what is going on with Part D. Under Part D, the drug manufacturers can charge essentially whatever they want. Despite their high administrative costs and billion-dollar profits, the private insurers have been unable to stand up for the interests of the taxpayer.

Many of our hearings on waste, fraud, and abuse identify problems that the executive branch can fix administratively. That's not the case with Medicare Part D. The waste in this program is a direct result of the statutory design of the law. Congress wrote this law and must lead the way to a solution.

To start this process, I will soon be introducing legislation that will protect the taxpayer by bringing down the high drug prices in Medicare Part D. This bill will guarantee that federal taxpayers cannot be charged higher prices for the dual eligible beneficiaries under Medicare Part D than under Medicaid.

The potential savings to Medicare and the federal taxpayer are enormous. Passage of reform legislation could save the taxpayer almost \$90 billion over the next ten years. Even more could be saved if the federal government were authorized to negotiate prices on behalf of all Medicare beneficiaries.

I'm looking forward to hearing more about this issue today and working together with members of this Committee to improve the Part D benefit.