

**STATEMENT OF
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before the

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT
MANAGEMENT, THE FEDERAL WORKFORCE, AND THE
DISTRICT OF COLUMBIA
COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

on

***Private Health Records: Privacy Implications of the Federal
Government's Health Information Technology Initiative***

February 1, 2007

Mr. Chairman and Members of the Subcommittee:

It is a pleasure to be here today to represent Director Linda Springer and to discuss how OPM is working with the Department of Health and Human Services (HHS), other Federal Agencies, and Public/private bodies to ensure that security and privacy are an integral part of the national health information technology (HIT) initiative. In his State of the Union address, President George W. Bush voiced his support for better information technology and he further stated that "In all we do, we must remember that the best health care decisions are made not by government and insurance

companies, but by patients and their doctors.” I am here today to describe how we are working to carry out the President’s objectives and to ensure that the privacy rights of our Federal healthcare consumers are protected.

Administering the Federal Employees Health Benefit Program

OPM administers the Federal Employees Health Benefits (FEHB) Program, which covers approximately 8 million Federal employees, retirees and their dependents. FEHB offers competitive health benefits products for Federal workers, much like large employer purchasers in the private sector, by contracting with private sector health plans. OPM has consistently encouraged participating health plans to be responsive to consumer interests by emphasizing flexibility and consumer choice as key features of the program. We have also encouraged plans to adopt health information technology as another important consumer oriented initiative. At the same time, we have stressed that the privacy and security of individual health information is of paramount importance.

FEHB enrollees have the same privacy protections under Federal law as all Americans. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) provides for the adoption of standards for health care transactions and the protection of the privacy of individually identifiable health information. All FEHB health carriers are required to be in compliance with HIPAA requirements. And, if there are any other Federal

laws enacted which apply to our carriers and similarly protect the privacy of personal health information, we will expect compliance.

HIT, Privacy and the FEHB Program

OPM has been very active in the area of health information technology. In 2004, President George W. Bush, by way of Executive Order 13335, clearly established the importance of the development and implementation of a nationwide interoperable health information technology (HIT) infrastructure to improve the quality and efficiency of health care.

The Executive Order also required patients' individually identifiable health information to be secure and protected. As the administrator of the country's largest employer-sponsored health insurance programs, OPM plays a key role in fulfilling President Bush's vision of making health information easily accessible to consumers through the adoption of advanced technologies.

In response to the Executive Order, we submitted a report to President Bush in July 2004 that outlined possible options OPM could take to facilitate the nationwide adoption of interoperable HIT. Early in 2005, we issued our annual FEHB "Call Letter" to provide guidance and negotiation objectives for benefit and rate proposals from FEHB Program plans for the next contract term. In that letter, we encouraged FEHB plans to begin making focused efforts toward the greater use of HIT while ensuring compliance with Federal requirements to protect the privacy and security of personal

health information. We found that, while there were wide variations in the scope and extent of HIT use, most plans were focusing their efforts on providing claims-based information through their web sites, linking disease management programs to HIT initiatives, and e-Prescribing. Since that time, some plans have developed robust HIT systems and we are recognizing their efforts on OPM's website. We will discuss these efforts in more detail shortly.

In September 2005, the American Health Information Community (the Community) was formed. It is chaired by the Secretary of Health and Human Services (HHS), Mike Leavitt, as a Federally-chartered advisory committee charged with developing recommendations for HHS on key health IT strategies. Secretary Leavitt named Director Springer as a member of the Community. OPM employees serve on the Consumer Empowerment Workgroup. The workgroup has a broad charge to make recommendations to the Community to gain widespread adoption of a personal health record that is easy-to-use, portable, longitudinal, affordable, and consumer-centered.

OPM employees also serve on the Quality Workgroup. This workgroup has a broad charge to make recommendations to the Community so that HIT can provide the data needed for the development of quality

measures and to make recommendations on how performance measures should align with the capabilities and limitations of health IT.

Another workgroup formed by the Community is the Confidentiality, Privacy and Security Workgroup. As a Community member, we remain informed of its activities and recommendations. We will continue to closely monitor the workgroup's activities. When their recommendations are presented to the Community, we will evaluate them for applicability to FEHB carrier contracts.

OPM is also a member of the interagency Health IT Policy Council. This Council was established to coordinate Federal health information technology policy decisions across Federal Departments and agencies that will drive Federal action necessary to realize the President's goals of widespread health IT adoption.

In 2006, our call letter asked FEHB carriers to work toward several specific short-term objectives. These included enhancing educational efforts to increase awareness of the value of HIT among plan members; offering personal health records to consumers based on their medical claims history; encouraging ePrescribing; and linking disease management programs with HIT systems. Again, we stressed the need to ensure compliance with

Federal requirements to protect the privacy and security of individually identifiable health information.

We highlighted those FEHB plans with state-of-the-art HIT capabilities on our website during the November 2006 Open Season so that consumers would have this additional information to take into consideration in making their plan choices.

In August of 2006, President Bush issued Executive Order 13410, *Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs*. It underscored the President's continued commitment to the promotion of quality and efficient delivery of health care. With the Order, the President greatly expanded the information about FEHB plans to be made available to Federal employees and committed the Federal Government to transparency in pricing and, quality, implementation of health IT interoperability standards, and insurance options that reward cost-conscious consumers.

In support of the Order, OPM has required all FEHB plans to report on quality measures, including data from the Health Plan Employer Data and Information Set. OPM has also encouraged all plans to provide information on cost and quality transparency. Along with the plans with state-of-the-art HIT capabilities, this additional information was prominently positioned on OPM's Open Season website to assist prospective enrollees with making

informed health plan choices for 2007. Last, and most important, OPM has informed carriers they must continue to ensure compliance with Federal requirements that protect the privacy and security of individually identifiable health information.

Looking forward, OPM will require, to the extent permitted by law, FEHB carriers to adopt standards for interoperability of health information records in harmony with their adoption and implementation in the healthcare industry. And, we will continue to expand the FEHB web site to provide information regarding carriers' cost and quality transparency initiatives, as well as their health IT capabilities, so prospective enrollees can view the information in making their health plan choices for 2008.

The FEHB Program has always been a market-based program and relies on competition to provide choice and to keep costs reasonable. Along these lines, we are encouraging FEHB plans to continue offering insurance options that reward consumers for choices based on quality and cost. And, we will continue to focus efforts on accelerating the use of HIT to further the President's goals.

We firmly believe privacy and security of personal health information is important. We are encouraged by HHS' efforts to address this important issue. We plan to continue to work closely with HHS, the Community and

the HIT Policy Council to ensure all necessary steps are taken to protect consumer privacy rights.

We appreciate this opportunity to testify before the Subcommittee on this very important issue. I will be glad to answer any questions you may have.