Statement of Rep. Henry A. Waxman
Introduction of the Medicare Prescription Emergency Guarantee Act
January 30, 2006

A little over a week ago, I held a briefing to get some information on the problems seniors and persons with disabilities were having with the new Medicare prescription drug program. We used that format because our Republican colleagues have so far failed to hold any hearings to see what's actually happening out there to the people who are trying to get their drugs, and to the pharmacists that are trying to provide them.

Quite simply, the situation was a disaster.

People in nursing homes were randomly assigned to plans that didn't cover their drugs. The nursing home was barred from giving them information that might have helped them.

People who needed refills of their drugs found they were in a plan that didn't cover them. They didn't know how to appeal the decision or what to do. Pharmacists who tried to help them waited hours on the phone to try to reach anyone.

People were asked to pay copayments far beyond what they had been paying with their Medicaid coverage and far beyond what they could afford. Either they had to go home without the drug they needed, or rely on the drug store to foot the bill without knowing whether they'd be paid or not.

For far too many, the pharmacy couldn't verify that the person had coverage with a plan at all.

And people who had received their drugs through drug company-sponsored pharmaceutical assistance programs found they had lost that help.

All of these problems are, by all indications, far too prevalent in this program. Some of them are particularly acute because of start-up problems in implementation. But in truth, many of them are endemic to a drug program that is so complex and filled with red tape as this Medicare prescription drug program is.

Remember, every year, Medicare beneficiaries are going to have to go through this process. Every time enrollees change plans, or new enrollees come into the program, these problems are going to be there. And since plans can change their formularies at will, people will continue to have their drug coverage disrupted.

This bill that we are introducing today is going to help. It is essential to dealing with these problems. As long as the Medicare drug program is in fact a dizzying array of private insurance plans, these changes are critical.

But the fact is, it didn't have to be this way. We should have had a simple, straight-forward benefit as a regular part of Medicare. Seniors and persons with disabilities should have needed to do just one thing to get their coverage — show their Medicare card.

I think a critical question we need to ask is why we ended up with a program that put the interests of the drug companies and the health insurers ahead of the interests of Medicare beneficiaries. I think we need to ask why giving a lot of profitable business to private insurers was more important than giving seniors a simple straightforward Medicare benefit that worked the way every other benefit works in that program.

I think we need to ask why we ended up with a bill that bans using the combined purchasing power of all of Medicare's beneficiaries to get a better deal on drug prices for America's seniors and America's tax payers.

We know one thing that happened on January 1 was a multi-billion dollar handout to the pharmaceutical industry.

All of the drugs for the 6.4 million dual eligibles that had received their drug coverage under Medicaid were no longer required to be sold at the best available price. They were no longer subject to the requirement of giving a rebate to the government. Those cost-saving measures disappeared. And so did the requirement that prices on those drugs couldn't go up faster than inflation. All those provisions designed to get a lower price on drugs were gone.

That would have made sense if Medicare could have used its power to get similar cost savings. But under the law, it cannot. As a result, my staff has estimated that wiping out provisions that guaranteed the best prices for the dual eligibles will cost taxpayers over $30 billion extra — with all of it going directly into the pockets of drug manufacturers.

Last Friday, I asked the GAO to investigate this multi-billion dollar handout.

But even without the GAO investigation, we certainly can understand the implications of this.

A study came out last week that showed that if the Medicare drug benefit gave U.S. seniors access to the lower drug prices offered in other countries, seniors could save more money than they can under the new Medicare benefit. That is simply an indication of what we have lost by barring the program from using the negotiating power of Medicare beneficiaries.

Of course, seniors and persons with disabilities should have Medicare drug coverage. But they should get low prices too. That would be a better deal for them and for the American tax payer.

When it is the drug companies, the HMOs, and the big insurers who benefit from a bill, we need to ask why.

The fact is, in my 30 years in Congress, I never saw a more dishonest legislative process. The bill was put together behind closed doors; members knew less about what was in it than lobbyists did. Cost estimates of the bill were illegally withheld from Democrats. The Administration's chief negotiator and the Republican chairman who was the lead negotiator on the bill ended up shortly after representing the drug companies.

We need to look at the connection between millions of dollars in campaign contributions and the policies that resulted in this legislation.

We need to look at the activities of the Alexander Strategy Group, closely tied to many implicated in the Abramoff scandal, with its millions of dollars in drug company clients

I believe the corruption of the process heavily influenced the outcome of the Medicare legislation, and America's seniors and tax payers are bearing the burden of the result.

And I think we may be seeing a similar effect on the Reconciliation bill that the House is going to vote on this Wednesday. Why would conferees leave over $20 billion dollars on the table that could have come from drug companies and HMOs? Why did they choose instead to ask the poorest of the poor to face high cost-sharing and loss of critical benefits?

Leader Pelosi, Congressman Hoyer and I recently wrote to the Speaker to ask him to postpone the vote on the reconciliation bill until we can be sure of what influence the Alexander Group exerted on this process.

We've had a lot of talk about cleaning up the ethics around here. This would be a good place to start.