

FRANK R. LAUTENBERG

NEW JERSEY

COMMITTEES:

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TRANSPORTATION  
GOVERNMENTAL AFFAIRS

# United States Senate

WASHINGTON, DC 20510

January 29, 2004

Honorable David M. Walker  
Comptroller General of the United States  
General Accounting Office  
441 G Street NW  
Washington, DC 20548

Dear Comptroller General Walker:

I am writing to alert you to a misuse of government funds by the Executive Branch in violation of Public Law 108-7, Title VI, Sec. 626.<sup>1</sup> The Department of Health and Human Services has produced a flyer<sup>2</sup>, attached, which the Administration is planning to produce 36 million copies of in order to send to every current Medicare recipient in the country. By the admission of the Secretary of Health and Human Services, Tommy G. Thompson, this flyer, which promotes the Medicare law recently signed by the President, was produced in response to criticisms of the new law by "the Democrat candidates running for President."<sup>3</sup> Secretary Thompson has stated that this flyer is part of a "robust campaign" that will include joint appearances around the country by Administration officials and Republican Members of Congress.<sup>4</sup>

This flyer was produced for purposes of propaganda and publicity in violation of the appropriations law. The Administration has admitted that the flyer was specifically produced by in response to electioneering communications by candidates seeking to challenge President Bush in the upcoming election. As detailed by the attached analysis, the flyer does not contain objective statements of fact about the new law, but rather many misleading and highly subjective, propagandizing claims about the benefits of the new law.

For example, the flyer contains misleading information about the prescription drug discount card, the amount of the monthly premium for prescription drug coverage, the size of the gap in coverage, and other key points. The attached analysis of the flyer details the specifics of these problems.

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<sup>1</sup> This provision is included annually in the General Government Appropriations legislation. The law states: "No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress." See also P.L. 108-199, Division F, Transportation Treasury and Independent Agencies Appropriations 2004, Sec. 624.

<sup>2</sup> Government Printing Office Publication No. CMS-11054

<sup>3</sup> Robert Pear, *Health Chief Attacks Democrats on Medicare*, The New York Times, January 13, 2004, p. 23

<sup>4</sup> Amy Goldstein, *Medicare Portrayal Tailored by Parties; In Election Year, Senior's Support is Key*, The Washington Post, January 11, 2004, p. A6

As you know, the GAO has criticized "dissemination to the public" by Federal agencies of pamphlets or publications that "are so oversimplified and distorted that they clearly constitute propaganda."<sup>5</sup> The GAO has criticized agencies for failure to "provide an objective statement of the facts" and said that an agency "should not place itself in a position of misleading others."<sup>6</sup>

In addition to the documented misleading statements in the flyer, there is the issue of timing. The bulk of the major changes made by the law – the prescription drug benefit portions – do not go into effect until 2006. While objective information on the new benefit's scope and enrollment information may be appropriate to mail out closer to the program's onset in 2006, there is no immediacy to mailing out such information, especially in the form the Administration has currently prepared.

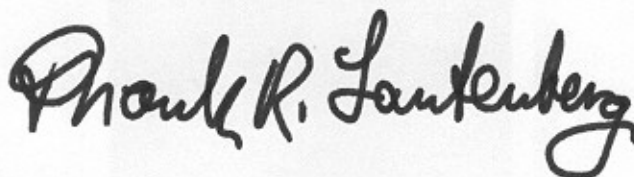
Another indicator of the propagandizing and political nature of the flyer is its reference to an extraneous Presidential health initiative not even available to Medicare beneficiaries. Under the heading "News for All Americans" the flyer touts the President's "Health Savings Accounts," a program in which Medicare beneficiaries are not eligible to participate. The flyer omits this critical fact, and misleads Medicare beneficiaries into believing that the program is both relevant to Medicare and available to them.

The Government Printing Office has informed us that this flyer will cost taxpayers \$10 million, \$3.2 million in printing costs and \$6.8 million in mailing costs.

This major cost and massive distribution is an important factor in determining that this flyer is an improper expenditure, especially when you consider the lack of immediacy for this information. The misleading content, along with the expensive, color, glossy design of this flyer, is not consistent with any claim that the flyer is a necessary expense to provide objective information.

I urge you to impose appropriate measures to ensure the proper expenditure of taxpayer funds, including seizure of any currently printed material and immediate suspension of activities related to the publication and distribution of this document.

Sincerely,



Enclosure

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<sup>5</sup> General Accounting Office, Report of the Comptroller General of the United States, B-130961, "Problems with Publication Related to the Clinch River Breeder Reactor Project," at 1,4 (January 6, 1978).

<sup>6</sup> GAO, Report to Congress by the Comptroller General, B-130961, "Evaluation of the Publication and Distribution of 'Shedding Light on Facts About Nuclear Energy,'" at 7, 30-33 (September 30, 1976).