United States Senate
Committee on Finance

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Floor Statement of U.S. Senator Chuck Grassley, of Iowa
"Medicare Part D — The Debate on Government Negotiation, A Week in Review"
Senate Committee on Finance
Tuesday, January 16, 2007

Mr. President, on four days last week, I talked about the Medicare prescription drug benefit and the so-called prohibition on government negotiation with drug makers for low prices. I spent time doing that because people need to understand that some proposals could have drastic consequences not only for Medicare beneficiaries, but also for anyone else who buys prescription medicines.

In other words, if we change Medicare it will increase the price of prescription drugs for everybody.

I've said it before and I'll say it again: having the government negotiate drug prices for Medicare might be a good sound bite, but it's not sound policy. H.R. 4, the bill passed by the House last week, falls into that category. It's a good sound bite, but not sound policy. It will be bad for Medicare beneficiaries and other consumers of prescription medicines. No one will win.

That outcome was voiced by witnesses who testified before the Senate Finance Committee last Thursday. First, Dr. Fiona Scott Morton, a Professor of Economics at Yale University, made a key point about the size of the Medicare market. She pointed out that of course, we all want to obtain discounts on drugs for seniors. But, she said, and I'm quoting: "With close to half of all spending being generated by those seniors, whatever price they pay will tend to be the average price in the market." Her point was that if you're half the market, the math makes it virtually impossible for your prices to be below the average.

Professor Scott Morton said that because Medicare is so large, if drug makers had to give it the lowest price they give any customer, they'd have a strong incentive to increase their prices for everyone else. Professor Morton also stated, and I quote: "This approach to controlling prices harms all other consumers of pharmaceuticals in the United States and is bad policy." So, it's "great" to help seniors, but there is no free lunch. Everybody, regardless of age, will pay more for prescription drugs.

Do you want to do that?

A representative of the non-partisan Government Accountability Office (GAO) talked about its 2000 report on this issue, and echoed Dr. Scott Morton's view. Remember, in 2000, the GAO concluded, "Mandating that federal prices for outpatient prescription drugs be extended to a large group of purchasers, such as Medicare beneficiaries, could lower the prices they pay, but raise prices for others."

One thing we keep hearing is that Medicare should not pay more than the VA pays. Dr. Richard Frank, an economist from Harvard University, said that if Medicare got the same prices that the VA gets drug makers would likely raise VA prices for all drugs. Do you want to hurt veterans? As they listened to Dr. Frank's response, other panelists nodded in agreement. Talk about unintended consequences. And you know who else agrees with that? The Military Order of the Purple Heart.

In a letter to Members of Congress, the Military Order of the Purple Heart expressed their concern about the impact that extending VA prices to Medicare could have. In fact, they stated that several veteran organizations have passed formal resolutions opposing legislation to extend VA prices to Medicare because it would threaten the VA's current discounts. So, higher drug prices for the VA.

Another key point made at last week's hearing was that it's not simply about the number of people you're buying prescription drugs for. In response to a question I asked, Professor Scott Morton said it doesn't matter whether you negotiate on behalf of one million people or 43 million people. What matters is what leverage you have and how you use it. And if you don't have a fundamental tool, and that would be a formulary, you have no leverage over drug makers. A formulary is a list of drugs that a plan will cover. Here's what Professor Scott Morton said would happen if someone negotiating drug prices couldn't have a formulary: “Each manufacturer would know that, fundamentally, Medicare must purchase all products. The Medicare 'negotiator' would have no bargaining leverage, and therefore, simply allowing bargaining on its own would not lead to substantially lower prices."

Mr. Edmund Haislmaier, a fellow with the Heritage Foundation, talked about the limits of bulk purchasing power alone. In his written testimony, he said, and I am quoting, "[that] volume purchasing encourages manufacturer discounting, it is not, in and of itself, sufficient to extract large discounts. Manufacturers will only offer substantial discounts if the buyer combines the 'carrot' of volume with the 'stick' of being able to substitute one supplier's goods with those of another." In drug negotiations, that stick is a formulary.

Mr. President, H.R. 4, the bill that was considered in the House last Friday, prohibits the Secretary from using a formulary. Thus, the stick that's necessary that the VA uses to drive down the price of drugs is not even in the House-passed bill that's supposed to guarantee senior citizens lower drug prices. So for all their talk about getting savings from government negotiation, the House Democrats took away the key tool to get lower prices.

That was a key lesson from last week's Finance Committee hearing. And here's what the Congressional Budget Office said about H.R. 4. H.R. 4 would have "a negligible effect on federal spending." Let me repeat that: "a negligible effect on federal spending." The CBO said, "Without the authority to establish a formulary, we believe that the Secretary would not be able to encourage the use of particular drugs by Part D beneficiaries, and as a result would lack the leverage to obtain significant discounts in his negotiations with drug manufacturers."

That statement's pretty clear: what we're being told will happen as a result of the House-passed bill - and that would be lower prices - isn't going to happen. Here's what the independent actuaries at CMS, which oversees the Medicare drug benefit, said about H.R. 4: "Although the bill would require the Secretary to negotiate with drug manufacturers regarding drug prices, the inability to drive market share via the establishment of a formulary or development of a preferred tier significantly undermines the effectiveness of the negotiation." So whether you're CBO working for the Congress of the United States or whether you're the independent actuaries at the Centers for Medicare & Medicaid Services, you reach the same conclusion. And that conclusion is that the House Democrats' legislation will not be effective because it prohibits the use of a formulary.

So why not have the Secretary establish a national formulary? Let me point out the key downside of having the Secretary establish a national formulary. Fewer drugs would be covered. If Medicare used a formulary like the VA's, it would mean 70 percent of drugs available today in Medicare would not be covered.

So let me sum up two important points from the hearing and from the experts at the Congressional Budget Office and from Medicare's Chief Actuary. First, giving Medicare the lowest price that a drug maker gives any purchaser - whether that be a private plan or the VA - will increase prescription drug prices for everyone else. That means higher prices for working Americans and small businesses. Second, the ability to use a formulary, to negotiate, you have to be able to tell a drug maker that if you don't give me a good price, I'll pick another drug to put on my formulary. If you don't believe all of these experts, if you don't believe all of these people who have studied this over a long period of time, who are you going to believe?

Now, I want to go back and remind everyone where the prohibition on negotiation came from. That's the non-interference clause. The opponents of the drug benefit seem to conveniently forget that their own bills had the same language and that they supported a benefit run by private plans. In fact, the prohibition of government negotiation- the non-interference language - first appeared in a Democratic bill. In total, seven bills introduced and supported by 34 Senate Democrats and more than 100 House Democrats had the prohibition in them. On top of that, many of the people who are now twisting that language around cosponsored those bills.

I also want to point out that even President Clinton's proposal to create a Medicare prescription drug benefit took the same approach. President Clinton said so many good things about having private plans negotiate lower drug prices for Medicare beneficiaries that I didn't have to think up new things to say. I just need to repeat what President Clinton said about saving money, about the ability of plans to negotiate, and about ensuring seniors have a wide range of

prescription medicines available to them.

Mr. President, let me wrap up by going back to where I started last week. The Secretary does not need the authority to negotiate. And a national formulary is a bad idea. Competition among plans is leading to lower drug prices for beneficiaries and lower costs for taxpayers and states. Premiums are lower than they were estimated to be. Before 2006, Medicare's chief actuary estimated that the average monthly premium would be $37. But it was actually $23 in 2006. That is 38 percent lower than expected. And because of the strong competition between plans the average premiums for beneficiaries is expected to be about $22 in 2007.

Competition is working.

The net cost to the federal government is also lower than expected. Last week, the official Medicare actuaries announced that the net 10-year cost of Part D has dropped by $189 billion over the original budget window used when the MMA was enacted (2004-2013). That is a 30 percent drop in the actual cost compared to the projection.

Competition is working.

When else have you heard of a cost underrun in a federal program. Probably never. And you couldn't get those lower prices and lower costs unless the prescription drug plans are being strong negotiators with the drug makers.

Competition is working.

Now, I know that opponents of the drug benefit will likely keep up their attacks on the program. But I have been working hard this past week to give people some important facts that have been left out of the debate on government negotiation. The plain and simple fact of the matter is that competition among the plans is working. The Medicare plans are delivering the benefits to Medicare beneficiaries. These private-sector plans have the experience in negotiating better drug prices.

As I pointed out last week, for 50 years plans have been negotiating lower prices under the Federal Employees Health Benefits Program. The FEHBP has been successful, and that why we modeled the Medicare prescription drug benefit after it. These Medicare negotiators have proven their ability to get lower drug prices. The Medicare plans are negotiating with drug companies using drug formularies within the rules set in law. And these plans have to be approved by CMS. Medicare beneficiaries have access to the drugs they need.

And on that point, I'll give you just one example. Let me share with you the views of the ALS Association. ALS is Lou Gehrig's disease. Here's what they said about repealing the non-interference clause in a January 4th letter to Members of Congress. “The elimination of the non-interference provision will have particularly cruel consequences for people with ALS." The Association went on to say that, "It means that even if a new drug is developed to treat A-L-S, many patients likely will not have access to it. That's because price controls can limit access to

the latest technologies." The letter goes on to say that individuals with ALS, "will either be forced to forego treatment, or only have access to less effective treatment options - ones that may add a few months to their lives, but not ones that will add years to their lives." Just for the record, drugs to treat ALS are covered under the Medicare drug benefit.

Mr. President, I want to close by saying what I said on Monday benefit: "if it ain't broke, don't fix it." Competition is working. I ask unanimous consent that the letters that I referred to be included in the record.

I yield the floor.