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PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
Committee on Homeland Security and Governmental Affairs

Carl Levin, Chairman

Norm Coleman, Ranking Minority Member

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Opening Statement of Senator Carl Levin (D-Mich)
U.S. Senate Permanent Subcommittee on Investigations Hearing on
Medicare Payments for Claims Tied to Deceased Doctors
July 9, 2008

Medicare is a critically important program that provides essential health care to folks across the country. But Medicare also has a reputation for weak controls that waste hundreds of millions of taxpayer dollars each year. Today's hearing provides one example of those weak controls. From 2000 to 2007, we estimate that nearly half a million payments, totaling about \$76 million, went to medical equipment suppliers that had submitted claims using the identification numbers of 17,000 deceased doctors, and that represents about half of the deceased doctor population.

At the request of Senator Coleman, the Subcommittee undertook this investigation to examine Medicare claim prescriptions for Durable Medical Equipment presumably authorized by deceased doctors. This program is operated by the Centers for Medicare and Medicaid Services, or CMS.

We found that doctors who died one, five, even ten years earlier, were listed on Medicare claims prescribing equipment supposedly ordered by them years after their death. Here's how the Subcommittee estimates the dollar amounts of these claims. The Subcommittee received, from the American Medical Association, a list of physicians whose dates of death were between 1992 and 2002. We identified more than 33,000 deceased physicians who had Unique Physician Identification Numbers, or UPINs, and created a random sample of 1500 of those physicians. We then requested data from CMS about any claims that had been filed from 2000 to 2007 using those physician identifiers on a prescription dated more than a year after the physician's death.

Within our sample of 1500 doctors, we found that 734 UPINs, or about half the sample, were used by durable medical equipment suppliers on 21,000 claims totaling over \$3.4 million during that 7 year period. That's an average of almost 30 false claims filed per deceased doctor, or about \$4,600 paid out per deceased doctor. Then we used those numbers to generate statistically valid estimates of the total population of erroneous payments for medical equipment using the UPINs of deceased physicians. We estimate that, from 2000 to 2007, the UPINs of more than 17,000 deceased physicians were used on close to 500,000 erroneous claims that were paid over \$76 million. The failure to reject these claims raises questions about who at Medicare is safeguarding taxpayer dollars and why basic protections are not in place.

One example is a physician in Florida who died in 1999. Six to seven years later, from November 2005 through November 2006, Medicare paid out over \$544,000 worth of Durable Medical Equipment claims supposedly ordered by this physician.

How is it possible that Medicare paid over half a million dollars for Durable Medical Equipment presumably ordered by a deceased physician 6 to 7 years after his death? It seems apparent that the CMS system has failed to adequately monitor and audit the contractors who are paid to update the UPIN numbers and process the DME claims. When a DME claim comes in, the CMS contractor who processes the claims – called a DME Regional Carrier or DMERC – is supposed to verify that the claim includes a

valid and active UPIN for the prescribing physician. If the UPIN does not exist, or if it is assigned to a physician that is deceased, the claim should not be paid. It's supposed to be that simple.

When the \$544,000 in Florida durable medical equipment claims were submitted to Medicare using the UPIN of a physician who had died up to 7 years earlier, the contractor should have determined that the claims were invalid. Instead, the contractor accepted the claims from these companies using the deceased doctor's UPIN. While those claims happened to be in Florida, contractors have been approving claims filed with deceased doctors' UPINs all over the country. We estimate that about 2500 deceased physicians still had active UPINs as of May of this year.

What makes matters worse is that CMS was alerted to UPIN failures back in 2001, and said they took steps to correct it. But then never re-evaluated the situation to ensure the problem was fixed. It was in November 2001, when the Inspector General of the Department of Health and Human Services released a report finding that over \$90 million had been paid for medical equipment and supply claims with invalid or inactive UPINs in 1999 alone. In 2002, CMS said they implemented procedures to ensure that DME claims with inactive or invalid UPINs, including those belonging to deceased physicians, would be rejected. CMS issued instructions to its contractors, including the National Heritage Insurance Company Corporation (NHIC), the contractor that maintained the UPIN registry, entities that are for profit companies, to conduct a one-time cleanup to eliminate deceased physicians' UPINs. They were then required to update their UPIN registries every 15 months. Its contractors were also required, as of April 1, 2002, to reject all claims using the UPINs of deceased physicians. Looking internally, CMS also issued a directive to reprogram its own data system to guarantee the rejection of these types of claims.

Apparently, neither CMS nor their contractors did what they were supposed to do. The UPIN registry wasn't kept up to date. The contractors' systems didn't reject deceased physician claims. Neither did the CMS data system. And no one – CMS or the contractors – checked to see if the procedures were working. So 7 years after the IG report, we are back where we started, with CMS paying claims containing UPINs assigned to deceased doctors.

A few months ago, CMS terminated the use of the UPIN registry and replaced it with a new registry. But unless CMS and their contractors are held accountable for failures, and unless companies who wrongfully profited from improper use of deceased physicians identification numbers are held accountable, we will be back here 7 years from now asking the same questions.

The failure to stop payment of deceased physician claims is inexcusable since dates of deaths are so readily available. This type of abuse should have been stopped long ago. It is easy to obtain deceased physicians' identification numbers, and easy to use those numbers to obtain payouts through fraudulent claims. As long as millions of dollars in claims with deceased provider identification numbers are paid, fraudsters will continue to rip off the system.

To examine these issues in greater detail, we are going to hear today from some of the agencies that deal with Medicare, the Centers for Medicare and Medicaid Services (CMS), the Inspector General of the Department of Health and Human Services, and the Social Security Administration. Each of these agencies has cooperated with the Subcommittee's inquiry. We appreciate that cooperation, but we will nonetheless press them as hard as we can to end this taxpayer rip-off.

Finally, I would like to again thank the Subcommittee's ranking Republican, Norm Coleman, who initiated this investigation and his staff who have worked hard to examine these issues. I'd like to turn to him now for an opening statement.

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