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DRUG COMPANIES' REPACKAGING SCHEME COSTS TAXPAYERS OVER \$100 MILLION IN 1998 AND 1999

Rep. Henry A. Waxman (D-CA) today commended a HHS Inspector General report detailing how drug companies have used a drug repackaging scheme to circumvent the law that requires the companies to provide the Medicaid program with rebates based on the companies' "best" drug prices.

The IG report, entitled "Medicaid Drug Rebates -- Sales to Repackages Excluded from Best Price Determinations," was requested by Rep. Waxman last year. "This report shows that drug manufacturers have used drug repackaging to evade paying rebates to Medicaid," Rep. Waxman said. "Drug companies sold popular, brand-name drugs to HMOs at a discount without reporting the lower price as required by law. These scams have cost the American taxpayers more than \$100 million."

"The manufacturers violated the intent and the literal language of the law -- which specifically states that sales to HMOs be included in best price computations," Rep. Waxman said. "I urge the Department to take all necessary steps to recoup the lost rebates and to sanction the companies that illegally circumvented the law."

The HHS IG report examined the top 200 Medicaid reimbursed drugs. The report found that seven drug manufacturers excluded sales to repackagers from their best price determinations, including sales to three HMOs. Sales to HMOs are specifically required by statute to be included in a drug manufacturer's best price determination.

The exclusions to HMO repackagers resulted in significant loss in rebates. The report identified thirty sales to HMOs at prices significantly below the reported best price for the drugs. In some instances, the sales were at prices as much as 75% below the reported best price. As a result, the Medicaid drug rebate program lost more than \$100 million in 1998 and 1999.

The report did not calculate the financial impact of the sales to non-HMO repackagers. The prices for non-HMOs repackagers were sometimes 46% below the reported best price.

The new IG report is a followup to an earlier investigation by the IG and the Special Investigations Division of the minority staff of the Committee on Government Reform.