

Testimony Before the Energy and Commerce Subcommittee on Health
Hearing On Cutting Waste, Fraud, And Abuse In Medicare And Medicaid
H.R. 5044, the "Medicare Fraud Enforcement
The Honorable Ron Klein
September 22, 2010

I want to thank the distinguished chairman and ranking member of the subcommittees on health for holding this important and timely hearing, and for allowing me testify in support of my bipartisan legislation, the "Medicare Fraud Enforcement and Prevention Act."

I represent a congressional district in South Florida that is on the front lines of the battle to fight Medicare fraud. I have constituents who have sent me copies of their Medicare statements. It's absolutely ridiculous. Literally pages and pages of the same services billed over and over again, totaling thousands of dollars that were fraudulently billed to Medicare.

It's deplorable to think that there are people out there preying on our seniors, but as everyone here knows, it's true. Some estimates say that Medicare fraud totals \$60 billion a year. That's money taken out of the system to line the pockets of criminals and thieves.

Who loses from Medicare fraud? Seniors who face rising out of pocket costs for prescription drugs and other services, doctors and hospitals who provide medical services, and most of all, taxpayers, who are footing the bill at an absolutely staggering cost with every fraudulent claim. In short, we are all losers when a criminal commits Medicare fraud, and we must fight back.

That's why I teamed up with my good friend from Miami, Congresswoman Ileana Ros-Lehtinen, to put together some common-sense ideas that both build on the important provisions in the Patient Protection and Affordable Care Act, and bring new, innovative ideas to the table to fight Medicare fraud.

We take a tough, comprehensive approach at attacking criminals who seek nothing more than ripping off Medicare and preying on unsuspecting seniors by addressing both the front-end and back-end of fraud enforcement. This two-step approach involves instituting tough punishment and penalties to deter people from getting involved in fraudulent activities and putting in place tough safeguards to prevent fraudulent suppliers and providers from enrolling into Medicare, along with Medicaid, in the first place.

Specifically, H.R. 5044 doubles the penalties for the two cornerstone provisions used in the criminal code to fight Medicare fraud: the false statements and anti-kickback provisions in the Social Security Act. These penalties have not been updated since 1977 even though criminal conspiracies have dramatically advanced during that time.

HR 5044 will double the criminal penalties to a maximum of 10 years of imprisonment and up to \$50,000 in fines. It will also create a new offense for illegally distributing a Medicare or Medicaid beneficiary ID and establishes a maximum penalty of 3 years in prison and a fine up to the amount that was stolen from the government.

We also provide the HHS Office of Inspector General with new powers to fight fraud. In particular, we close a loophole in current law that allows corporate executives to avoid exclusion from Federal health care programs if they have been convicted of health care fraud. With the assistance of the Inspector General, we have worked in a bipartisan manner with the Ways and Means Committee to improve this provision, and we will now have a stand-alone bill addressing this loophole on the House floor later this week. I am proud of the bipartisan work we've done and look forward to passing this important piece into law.

While these tough new penalties will send a clear signal that health care fraud doesn't pay, penalties alone are not enough. Too often, Medicare fraud enforcement relies on a "pay-and-chase" model where criminals get paid before law enforcement officials can catch them. We must take strong actions to stop fraudulent people from enrolling in Medicare in the first place. As everyone on this distinguished committee knows, once someone gets a billing number, it's off to the races. This is simply not acceptable.

My legislation would prevent high-risk providers and suppliers from enrolling in Medicare in the first place through tougher pre-screening measures and through the latest technologies, so Medicare can stay one step ahead of the criminals. It will also force better data sharing among the agencies and contractors tasked with processing payment claims and the law enforcement agencies who, by law, must go after these criminals. One of the biggest flaws in our system is the unnecessary gaps in time when a fraudulent claim is submitted, and when the proper law enforcement agency is alerted.

For example, I recently met with the local Medicare Administrative Contractor for Florida. While they have some sophisticated computer systems to check for anomalies, they only download this information once a week. By that time, a criminal may have bilked Medicare for millions. We need to have the proper law enforcement officials alerted immediately, and our provision would shrink this critical gap in time.

These are some of the common-sense, bipartisan proposals in the Medicare Fraud Enforcement and Prevention Act. As you can see, Congresswoman Ros-Lehtinen and I put this legislation together with one goal in mind, and that's to strengthen and protect Medicare for the millions of men and women who depend on this critical program. We didn't look at any idea as being a Democrat idea or a Republican idea. We were just interested in what could work, and what could keep the criminals and thieves from robbing taxpayers and seniors of one of the best bedrock safety-net programs in our country's history.

Thank you again for the opportunity to testify, and I yield back my time.