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3 HEARING ON ``CUTTING WASTE, FRAUD, AND ABUSE IN MEDICARE AND

4 MEDICAID''

5 WEDNESDAY, SEPTEMBER 22, 2010

6 House of Representatives,

7 Subcommittee on Health

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The Subcommittee met, pursuant to call, at 10:08 a.m.,
11 in Room 2322 of the Rayburn House Office Building, Hon. Frank
12 Pallone [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Pallone, Dingell,
14 Green, DeGette, Gonzalez, Christensen, Castor, Sarbanes,
15 Braley, Waxman (ex officio), Shimkus, Burgess, Blackburn, and
16 Gingrey.

17 Staff present: Karen Nelson, Deputy Committee Staff
18 Director for Health; Andy Schneider, Chief Health Counsel;

19 Ruth Katz, Chief Public Health Counsel; Brian Cohen, Senior
20 Investigator and Policy Advisor; Katie Campbell, Professional
21 Staff Member; Tim Gronniger, Professional Staff Member; Alvin
22 Banks, Special Assistant; Brandon Clark, Professional Staff
23 Member, Health; and Sean Hayes, Counsel, O&I.

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24 Mr. {Pallone.} I call the meeting of the Health
25 Subcommittee to order. Today we are having a hearing on
26 Cutting Waste, Fraud, and Abuse in Medicare and Medicaid.
27 And I will recognize myself initially for opening statement.
28 What we are doing is examining how the Department of Health
29 and Human Services is using available statutory tools to
30 reduce waste, fraud, and abuse in the Medicare and Medicaid
31 programs. While estimates of the total cost of health care
32 fraud are difficult to obtain, it is estimated that all
33 health care fraud costs patients, taxpayers, and health care
34 providers billions annually. For every dollar put into the
35 pockets of criminals a dollar is taken out of the system to
36 provide much needed care to millions of patients, including
37 our nation's most vulnerable populations, children, senior,
38 and the disabled.

39 Fraud schemes come in all shapes and sizes. We heard
40 just last week in this subcommittee about how durable medical
41 equipment companies set up sham store fronts and appear as
42 legitimate providers. They bill Medicare for millions and
43 then close up their stores only to find a new location and do
44 it all over again. And then there are the legitimate
45 businesses that bill for services that were never provided
46 and pay kickbacks to physicians which treat criminals

47 trafficking in illegally obtained drugs. In the end, it all
48 has the same result undermining the integrity of our public
49 health system and driving up health care costs.

50 I think we can all agree that health care fraud is a
51 serious longstanding problem that will take aggressive long-
52 term solutions to reverse. We made a strong commitment to
53 combat these issues when Congress passed and President Obama
54 signed the Affordable Care Act earlier this year. That bill
55 contained over 30 anti-fraud provisions to assist CMS, the
56 OIG, and the Justice Department in identifying abusive
57 suppliers and fraudulent billing practices. The most
58 important provisions change the way we fight for it by
59 heading up the bad actors before they strike and thwarting
60 their enrollment into these federal programs in the first
61 place, and this way we aren't left chasing a payment once the
62 money is already out the door. Some other important measures
63 in the legislation include significant funding increases to
64 the health care fraud and abuse fund, the creation of a
65 national health care fraud and abuse data base, and new and
66 enhanced penalties for fraudulent providers.

67 CMS and OIG have important roles to fulfill and along
68 with the Justice Department and state and local Medicaid
69 programs they are better equipped today because of the
70 Affordable Care Act to safeguard the health and welfare of

71 Medicare and Medicaid patients. I want to welcome Peter
72 Budetti, a former staff member of this committee. I know
73 that you are no stranger to these issues or our hearing
74 proceedings. I also want to welcome or special welcome to
75 Daniel Levinson, who had the lucky privilege of being in
76 front of this subcommittee just last week and joins us again
77 today. I am going to thank both of them again for their
78 testimony.

79 And I would obviously like to thank our first panel,
80 Representative Ron Klein and Representative Peter Roskam for
81 joining us today. Your participation basically illustrates
82 the importance of this issue within the Congress, so we look
83 forward to your testimony on the first panel. But now I will
84 recognize my ranking member, Mr. Shimkus, for an opening
85 statement.

86 [The prepared statement of Mr. Pallone follows:]

87 ***** COMMITTEE INSERT *****

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88 Mr. {Shimkus.} Thank you, Mr. Chairman. We have long
89 struggled with combating the issue of waste, fraud, and abuse
90 in the Medicare and Medicaid debate. Criminals take billions
91 of dollars out of the system that could be spent on patient
92 care and reducing cost. And with entitlement programs
93 growing at an unsustainable rate, we simply cannot afford to
94 let these taxpayer dollars go to waste any longer. I am glad
95 to see the progress that HHS and the Department of Justice
96 have made in recent years with additional resources but we
97 can and must do more. Thanks to the efforts from our
98 colleagues, Mr. Klein, from Florida, and my good friend,
99 Peter Roskam, from Illinois, attention remains on new
100 innovative ways to improving the system. In Peter Roskam's
101 case, H.R. 5546 address an issue that I have talked about in
102 the committee a long time, addressing the issue prior to
103 sending the checks. That is what we do a very poor job at.

104 We would rather address the issue before that money goes
105 out the door than trying to gather up the dollars after they
106 have gone fraudulently to places for years, numerous,
107 numerous years. And so that is why I am very excited about
108 it. And I know that Peter has done a good job engaging the
109 Administration and has received pretty good feedback from the
110 Administration. We all know he is a close friend with the

111 President, former Illinois Senate buddies in the days gone
112 by. This also, for Mr. Levinson, I apologize. He gets a
113 chance to hear my rant and rave about the inability to get
114 the Secretary to testify before us on the health care law.
115 We are now close to 6 months. I guess 6-month anniversary
116 will be tomorrow. She is already engaged in the debate on
117 premium increases, and I think now would be the time to bring
118 her to the committee, Mr. Chairman, so we can have a full and
119 fair and free debate about the good, the bad, and the ugly on
120 the health care law and move in a direction and try to fix
121 some of the major provisions.

122 We know the high risk pools are at risk themselves. We
123 know premium increases are going up. We know the cost curve
124 was not bent down but it is bent up. We will continue to
125 raise these issue until we all leave for the election break,
126 which we are trying to figure out when that might be. Thank
127 you for this time. Before I yield back, I have, I think they
128 have been shared with your majority staff, 4 letters for
129 submission to the record that I ask unanimous consent to
130 insert.

131 Mr. {Pallone.} Without objection, so ordered.

132 [The information follows:]

133 ***** COMMITTEE INSERT *****

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134 Mr. {Pallone.} I am shocked that you are actually
135 handing me paper now that I see your computer device there.

136 Mr. {Shimkus.} I am trying to be as cool as you, Mr.
137 Chairman.

138 Mr. {Pallone.} Without objection, so ordered.

139 [The prepared statement of Mr. Shimkus follows:]

140 ***** COMMITTEE INSERT *****

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141 Mr. {Pallone.} I will now recognize the chairman of the
142 full committee, Mr. Waxman.

143 The {Chairman.} Thank you very much, Chairman Pallone,
144 for calling this hearing, and I am pleased to welcome our 2
145 colleagues who have introduced legislation. We all want to
146 stop the Medicare-Medicaid waste, fraud, and abuse, those of
147 us who support those 2 programs, and we know that millions of
148 Americans rely on them. We want to make sure that the money
149 we spend for Medicare and Medicaid services are going for
150 those services and not for waste, fraud, or abuse. This is
151 an important hearing. The Medicare and Medicaid programs, if
152 there is fraud against them they are bilking taxpayers and
153 they are undermining public health, and whether it is a
154 street corner criminal illegally trafficking in
155 pharmaceutical drugs or a large multi-national corporation
156 paying illegal kickbacks to health providers the bottom line
157 is the same. Billions of dollars are stolen from the
158 taxpayer-funded programs that provide health care to seniors,
159 children, and the disabled.

160 This kind of fraud costs more than money. It corrodes
161 the quality of care. It weakens Medicare and Medicaid. And
162 I must say that I have heard from providers over the years
163 that a lot of them feel that trying to figure out how to game

164 the system becomes very much part of what they do because
165 everybody else is doing it. The rationale isn't very
166 comforting when we hear it from our kids, but I have heard it
167 over and over again throughout the years. We want to hear
168 from the Administration, and I am glad that Mr. Budetti who
169 once served on the staff of this committee and the Oversight
170 Committee when I chaired it is here to talk about the
171 Administration's effort as well as Mr. Levinson who is the
172 Inspector General at HHS. You both play a very important
173 role in combating waste, fraud, and abuse. I hope this
174 hearing today will lead to a greater commitment and realistic
175 provisions to stop the fraud, waste, and abuse before it
176 takes place and not try to wait till afterwards to collect
177 the money back. Thank you, Mr. Chairman. I yield back my
178 time.

179 [The prepared statement of Mr. Waxman follows:]

180 ***** COMMITTEE INSERT *****

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181 Mr. {Pallone.} Thank you, Chairman Waxman. Next is the
182 gentleman from Georgia, Mr. Gingrey. It is nice to see so
183 many members here today. I was afraid that since we didn't
184 go in until this evening we wouldn't get that many, so it is
185 good to see so many.

186 Dr. {Gingrey.} Mr. Chairman, I am glad to be here.
187 Each year at least 3 percent of our country's annual health
188 care spending, that would be \$68 billion, is lost to fraud.
189 In fact, the FBI estimates that the number is much higher, as
190 much as 10 percent or 226 billion, so clearly this is a
191 problem in need of a fix, and an immediate fix if at all
192 possible. On the one hand, I am pleased to see that Medicare
193 fraud is not a partisan issue. The members who will testify
194 here today before us, both Republican and Democrat, they
195 symbolize that bipartisan interest, and I applaud them for
196 their efforts, both Representative Klein and Representative
197 Roskam, and we look forward to their testimony on their
198 specific bills that they have introduced.

199 American taxpayers deserve to know that their money is
200 being safeguarded here in Washington and preventing Medicare
201 waste, fraud, and abuse is one way to protect their precious
202 resources. While I may support many of these efforts to curb
203 Medicare waste and fraud, including in Obama Care Patient

204 Protection and Affordable Care Act of 2010, March 23, it is
205 unfortunate that these provisions were enacted in the bill
206 that I think is proving so harmful to both patients and
207 businesses here at its 6-month anniversary. The legislation
208 promised to reduce the cost of health care on patients by an
209 average of \$2,500 a year. This, some proponents argue, was
210 worth the cost of turning the health care system over to the
211 federal government and spending almost a trillion dollars in
212 the process.

213 The bill proponents spent about 18 months blaming
214 insurance companies for the high cost of care and they told
215 the American people that Obama Care could fix the problem.
216 Here we are 6 months later and insurance costs are going up
217 by as much as 20 percent. The reason for these increases,
218 Patient Protection and Affordable Care Act of 2010. I have
219 asked this committee repeatedly to call a hearing in order to
220 find out what in the world is going on. To support this
221 request, Secretary Sebelius has taken the unusual step of
222 publicly denouncing these costs, as she says, unjustified
223 rate increases. If that is the case, Mr. Chairman, then I
224 believe that the Secretary should come before this committee
225 and explain her reasons. The American people certainly
226 deserve answers.

227 Another promise was that every American would have

228 health care if the bill was passed, which when you read the
229 fine print means the federal government can now tax and
230 penalize any American who doesn't buy insurance regardless of
231 whether they have the ability to pay for it. With the 6-
232 month anniversary of Obama Care tomorrow, I think it is safe
233 to say the early news is not good. The 18 months the
234 President and your majority, Mr. Chairman, spent on selling
235 Obama Care instead of getting people back to work has not
236 only let many Americans without jobs but with higher health
237 care costs as well. Put simply, Obama Care has been proven
238 to be no way to solve a health care crisis. Mr. Chairman,
239 with that, I am going to yield back. I do look forward to
240 both panels, and thank you for calling this hearing.

241 [The prepared statement of Dr. Gingrey follows:]

242 ***** COMMITTEE INSERT *****

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243 Mr. {Pallone.} Thank you, Mr. Gingrey. Next is the
244 gentle woman from Colorado, Ms. DeGette.

245 Ms. {DeGette.} Thank you very much, Mr. Chairman. Mr.
246 Chairman, I think I never met a politician who believed in
247 waste, fraud, and abuse, and I think that it is great that we
248 are having this hearing on how we can continue efforts to cut
249 waste, fraud, and abuse in Medicare and Medicaid. I,
250 frankly, can't believe that actually we are having such
251 partisanship in some of these opening statements because I
252 think we can all agree on a bipartisan basis that we should
253 eliminate waste, fraud, and abuse, and as proof we have 2 of
254 our colleagues from both sides of the aisle here to testify
255 this morning. Eliminating these issues is an important goal
256 and it sounds like it should be easy to do, but, in fact,
257 these fraudulent practices are becoming increasingly more
258 sophisticated. And what I would like to do today is really
259 sit down and talk about how we can put together sophisticated
260 responses to address the sophisticated fraudulent practices.

261 Let me give you an example. In Denver, we had a woman
262 who was arrested by the HHS DOJ strike force in 2009. It was
263 a nationwide sweep that involved a Medicare kickback scheme
264 in Michigan. So the woman was from West Virginia. She was
265 arrested in Denver for a kickback scheme in Michigan, and

266 this was the level of sophistication that we are dealing with
267 with this fraudulent activity. This is why we really have to
268 put together some sophisticated responses. I am looking
269 forward not just to hearing from our colleagues today but
270 also from the experts who can talk to us about really what we
271 can do to actually cut waste, fraud, and abuse instead of
272 just talking about it in an election year. And I will yield
273 back.

274 [The prepared statement of Ms. DeGette follows:]

275 ***** COMMITTEE INSERT *****

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276 Mr. {Pallone.} Thank the gentle woman. Next is the
277 gentle woman from Tennessee, Ms. Blackburn.

278 Mrs. {Blackburn.} Thank you, Mr. Chairman. I thank you
279 for the hearing, and it is an important issue, one that we
280 need to focus on. I welcome our colleagues, and I want to
281 especially commend Mr. Roskam for a bill that takes a
282 proactive approach and looks at how we address this issue
283 before the payments are out the door. I think that is
284 important, you know. One of the things we have to realize
285 when we look at the Medicare component of this is that our
286 seniors have pre-paid their access to Medicare. The
287 government has been taking that money out of their paycheck
288 for years, and they do expect to get the services that are
289 there. And Mr. Waxman and I actually agree on something,
290 which may surprise some of you who are regular attendees in
291 this room, and we have to make certain that we look at the
292 delivery systems but that the services are there for the
293 people who are entitled to those services, to our nation's
294 seniors.

295 The Medicaid component of this, I would like to
296 highlight with this committee that in '03 we did a field
297 hearing, one of the first field hearings on Medicaid fraud.
298 This was in Bartlett, Tennessee. It was done on the TennCare

299 Program, and many of you have heard me talk about TennCare,
300 which was the experiment for the Clinton health care program,
301 for Hillary Clinton's health care program in the preamble to
302 Obama Care. What we found was rampant waste, fraud, and
303 abuse in this program, so much so that TennCare has its own
304 investigative bureau in trying to capture and quantify and
305 then recapture those dollars, so it is a problem, and we know
306 it is a problem.

307 I want to say a little bit about Obama Care since this
308 is the 6-month anniversary of that passage, and I think that
309 right now we are beginning to see the aftermath or maybe it
310 is the lack of math, if you will. The law is costing
311 Americans and families with children undue hardships and is a
312 financial burden. We are beginning to see this. There has
313 not been a single oversight hearing in this committee. There
314 is no transparency in the budgetary operations and processes.
315 Americans are losing coverage. They are losing patience.
316 Our focus need to be turned to that. The real cost of Obama
317 Care goes much deeper than the government's pockets. We are
318 seeing estimates that it is going to cost hard-working
319 citizens who are hanging on to their jobs on average \$899 per
320 year in premium contributions, an increase of more than 15
321 percent than last year. The percentage paid by workers for
322 individual and family coverage rose for the first time in

323 over a decade.

324 Individual premiums average over \$5,000 and family
325 premiums average nearly \$14,000. Additionally, Obama Care
326 will lead to a 51 percent reduction in current health
327 coverage for the American work force over the next 3 years.
328 To keep American workers employed and healthy, this is an
329 absurd statistic. Nine regulations are included in the
330 health care reform that will, in fact, raise premium cost for
331 individuals and employers. These facts are alarming for a
332 country facing uncertain times and economic hardships.
333 Prominent health insurance have even stopped issuing, they
334 are stopping issuing the child-only plans instead of meeting
335 the new requirements of accepting children with pre-existing
336 conditions. What happened to the promise that if you like
337 what you have, you can keep it? Now the most vulnerable are
338 losing their coverage. We should be focusing on this. There
339 were a lot of lessons to be learned from TennCare. We in my
340 state have been down this road. Mr. Chairman, we need to be
341 putting some oversight and some attention on this. I yield
342 back.

343 [The prepared statement of Mrs. Blackburn follows:]

344 ***** COMMITTEE INSERT *****

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345 Mr. {Pallone.} Thank you. Next is the gentleman from
346 Texas, Mr. Gonzalez.

347 Mr. {Gonzalez.} Mr. Chairman, you can stop my practice
348 of generally not to make opening statements but I am going to
349 have to agree with Ms. DeGette. We can take up an hour on
350 campaign rhetoric. I would simply like to reserve that for
351 the time that we are not trying to conduct hearings and
352 listening to witnesses. We go back and forth. The truth is
353 the health care bill passed. Its major provisions will not
354 take effect for another couple of years. If anyone on the
355 other side of the aisle wants to basically rescind what has
356 already taken place and the benefits that are being enjoyed
357 by millions of American families, then say so. Don't
358 speculate on what may or may not happen in a year or two or
359 so. But what about the immediate benefits? Do you really
360 want to deny families the ability to obtain health insurance
361 for their child who may have a pre-existing condition? Do
362 you really want the insurance companies to be able to rescind
363 your policy when you get sick?

364 Those are the benefits, and we will go on and on with
365 this. The only thing is I am hoping that we can get to an
366 issue that we should all have some concurrence and that is
367 not let the taxpayers of this country lose money due to

368 fraud. And with that, I yield back.

369 [The prepared statement of Mr. Gonzalez follows:]

370 ***** COMMITTEE INSERT *****

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371 Mr. {Pallone.} Thank you. Next is another gentleman
372 from Texas, Mr. Burgess.

373 Dr. {Burgess.} Thank you, Mr. Chairman. Of course, it
374 is my policy to make opening statements in this committee and
375 I will do so. I don't think the federal government has done
376 enough to address the issue of inappropriate transfer of
377 funds for several years, even as reports indicate that our
378 nation's government-run systems needlessly waste hundreds of
379 billions of dollars each year through these activities. So
380 eliminating the problems that cause the hemorrhage of
381 billions of dollars in our country's government-run health
382 care programs should have been a priority actually before we
383 began to think about expanding the role of the federal
384 government in health care, but we didn't do that. Fraud
385 analysts and law enforcement officials estimate that 10
386 percent of the total health care expenditures are lost to
387 fraud on an annual basis. If we are serious about bringing
388 down the cost of health care and protecting the patient, not
389 just reducing but eliminating fraud is where we need to go.

390 In Medicare, the government pays providers in
391 practically an automatic fashion without review or scrutiny
392 of the claims submitted. In north Texas, Fox channel 4,
393 Becky Oliver, an investigative reporter, reported on a home

394 health agency operator who is now behind bars. The records
395 show that Medicare paid her over \$8 million in 2 years time
396 to care for home bound patients. The woman's patients
397 included a man seen moving furniture, a lady seen running
398 errands, and a man seen enjoying a barbecue. Even worse than
399 that, she had multiple provider numbers, and after they shut
400 down one provider number they continued to pay other provider
401 numbers to the same post office box. This is unacceptable.
402 Currently, the Center for Medicare and Medicaid services
403 oversees a network of private contractors that conduct
404 various program integrity activities in conjunction with the
405 Office of Inspector General at Health and Human Services and
406 the Department of Justice that were still losing billions of
407 dollars annually to fraud.

408 We must improve oversight of these contractors and the
409 Center for Medicare and Medicaid Services needs to take a
410 more proactive role in assuring that contractors are using
411 the utmost scrutiny in reviewing their activities. Further,
412 I will raise a point that I raised numerous times. How much
413 fraud are we willing to tolerate? The answer should be none
414 but in reality the lack of prosecutors with a background in
415 health law cripples our ability to go after everyone or in
416 fact anyone. Are we comfortable with that, and, if not, this
417 committee should work with our colleagues in Judiciary to

418 correct it.

419 Under the Patient Protection and Affordable Care Act,
420 and I would submit that affordable should be stricken from
421 the title, but our current system is to prevent improper
422 payments and we know it is inadequate. How can you assure
423 that millions of dollars in funding in the PPACA and the
424 Reconciliation Act will solve the problem. If more needs to
425 be done, and it does, it should be a priority in this
426 committee. I have introduced several fraud-fighting
427 amendments during the consideration of our health care bill
428 3200. As ranking member of Oversight and Investigations, I
429 am working with ranking member Barton to build off these
430 suggestions for forthcoming legislation. As health care
431 expenditures continue to rise developing new and innovative
432 approaches to fight fraud becoming increasingly important,
433 and I look forward to the testimony of our colleagues today
434 as well as the representatives of the federal agencies, and I
435 yield back.

436 [The prepared statement of Dr. Burgess follows:]

437 ***** COMMITTEE INSERT *****

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438 Mr. {Pallone.} Thank you, Mr. Burgess. Next is the
439 gentle woman from Florida, Ms. Castor.

440 Ms. {Castor.} Thank you, Chairman Pallone, very much
441 for calling this hearing, and I would like to welcome my
442 colleagues, Congressman Roskam and Congressman Klein. Ron
443 Klein especially has been a real leader for our Florida
444 delegation when it comes to Medicare and fighting fraud, and
445 rightfully so because south Florida often has many shady
446 dealers down there. So, Ron, thank you very much for your
447 terrific leadership on the issue. In Florida, Medicare and
448 Medicaid is a real life line for our families and our
449 seniors, and folks simply expect that the folks in charge of
450 administering these initiatives keep a close eye on
451 fraudulent practices, and I think we are going to continue to
452 improve when it comes to that.

453 I am also very sensitive to the issue just in 2007. The
454 FBI raided a major health insurance company in Tampa and that
455 provider had stolen over \$600 million from Medicaid and
456 Medicare through fraudulent claims to CMS and ripping off the
457 State of Florida. Subsequent to that, the Obama
458 Administration thankfully cited one of their new health care
459 fraud, prevention, and enforcement teams, the HEAP teams, in
460 Tampa and our local U.S. Attorney's Office is very

461 appreciative of the new tools that will allow us to continue
462 to weed out these fraudulent practices in Medicare.

463 I am also very optimistic over the new robust commitment
464 to anti-fraud in the Affordable Care Act. The Affordable
465 Care Act clearly outlines a strategy to combat fraud in
466 Medicare and Medicaid, and these new tools are really going
467 to help us prevent shady practices and recoup billions of
468 dollars that rightfully belong to the health services of
469 families across the country. So this is a good news week
470 when it comes to health care because not only are we going to
471 highlight the robust new commitment to weeding out Medicare
472 fraud, we can celebrate a lot of important consumer
473 protections that are taking effect just this week. No longer
474 will health insurance companies be able to say to families
475 with children with diabetes or asthma that they can't get
476 coverage. That is fundamental in this great country. Also,
477 I know many of you are hearing from families like I am back
478 home. They are so appreciative that kids can stay on their
479 parent's insurance policies until the age 26. That takes
480 effect this week.

481 Also, this week the law will prevent health insurance
482 companies from cancelling coverage when you get sick or if
483 you made a mistake on your application. And one of the
484 things we have been fighting for for years is a new emphasis

485 on wellness and preventative care, and this week families
486 across America will receive their preventative care without
487 having to pay significant out of pocket expenses for services
488 like mammograms and colonoscopies, immunizations, and
489 prenatal and well baby care. This is something we have been
490 working on for a long time that is going to help us save
491 money just like fighting Medicare fraud will. Also, on
492 Monday I hope you saw Blue Cross and Blue Shield announce
493 that thanks to the Affordable Care Act over 200,000 customers
494 will receive refunds totaling over \$150 million, and just
495 yesterday we learned, and Congressman Klein is going to like
496 this because he has been such a champion for making sure
497 Medicare Advantage works, we learned yesterday that on
498 average premiums for seniors enrolled in Medicare Advantage
499 will decrease.

500 So this is a good news week when it comes to health
501 care, and again thank you, Mr. Chairman, for convening this
502 hearing. I look forward to hearing from our witnesses.

503 [The prepared statement of Ms. Castor follows:]

504 ***** COMMITTEE INSERT *****

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505 Mr. {Pallone.} Thank you. The gentle woman from the
506 Virgin Islands, Ms. Christensen.

507 Dr. {Christensen.} Thank you, Chairman Pallone, for
508 this hearing where we get a chance to focus on the
509 improvements that the Patient Protection and Affordable Care
510 Act is making on reducing waste, fraud, and abuse in CMS
511 programs, and potentially all government-run health care
512 programs. The willful fraud and abuse and the waste that we
513 often see in this program costs not just the taxpayers but
514 all who depend on this system for care immeasurable damage.
515 And the savings that will be realized from reducing or
516 eliminating them will serve to improve and expand services to
517 the beneficiaries and others. I also want to thank my
518 colleagues, Congressman Roskam and Congressman Klein for the
519 legislative offerings to make the Affordable Care Act
520 provisions even stronger. As a physician who struggled with
521 then HCFA, I have to say that also an important part of the
522 CMS armamentarium ought to be fair and adequate
523 reimbursement, and the Affordable Care Act does make some
524 important steps in that regard.

525 As a provider physician, I also want to thank both the
526 Inspector General and the Deputy Administrator for including
527 a statement, either this particular statement, or one

528 similar, that the vast majority of health providers are
529 honest people who seek to do the right thing and provide
530 critical care services to millions of CMS beneficiaries, and
531 I would add others, every day. Too often that is not the
532 message that we hear or the premises that guides legislation.
533 It is a daunting task or set of tasks that the law has set
534 out and you have before you. I am glad that you see
535 providers as well as beneficiaries as your partners, and the
536 key here are clear guidelines and appropriate education on
537 how we can best be that.

538 These and all the other provisions of the Affordable
539 Care Act provide a strong blueprint for turning what despite
540 all the wonderful technological, pharmaceutical, and biotech
541 advances is a dysfunctional and inequitable system into a
542 world class system that would be the envy of the world. I
543 look forward to all of the testimony and the discussion to
544 follow, Mr. Chairman, and I yield back the balance of my
545 time.

546 [The prepared statement of Dr. Christensen follows:]

547 ***** COMMITTEE INSERT *****

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548 Mr. {Pallone.} Thank you. Next is our Chairman
549 Emeritus, the gentleman from Michigan, Mr. Dingell.

550 Mr. {Dingell.} Mr. Chairman, thank you. I want to
551 commend you for this hearing. The topic before us is a very
552 important one. Each year the taxpayers are losing billions
553 of dollars because of intentional fraud to the Medicare and
554 Medicaid systems. Criminals who defraud these programs not
555 only steal from the taxpayers but they do it at the expense
556 of American seniors and families. The Administration has
557 taken many positive steps to fight fraud. This committee has
558 been immediately involved in many of these, and the fight
559 goes back a long way. These actions show why it is a very
560 much needed government action. People in Michigan have seen
561 first hand the work of the Medicare Fraud Strike Task Force.
562 Their work led in July to the arrest of 94 people who had
563 defrauded the Medicare system. Two of these scam artists
564 were from Detroit and were convicted in a \$2.3 million fraud
565 scheme.

566 These people not only broke the law but they took
567 advantage of the most vulnerable members of our society, the
568 elderly and poor, and they harmed programs that are vital to
569 that particular community and to this country. This is only
570 a beginning, and the health care reform law does a number of

571 good things, but some of the lesser known benefits of it
572 included the unprecedented set of tools it gives the
573 Administration to squeeze out waste, fraud, and abuse.
574 Because of the Affordable Care Act, the Administration can
575 now move from a pay and chase model of fighting fraud to a
576 much better one, one that prevents fraud from happening in
577 the first place. Now criminals will not be accepted into
578 these programs in the first place, and those that slip in
579 will not get paid.

580 For example, the new law requires stronger rules and
581 sentences for people who commit health care fraud, better
582 screening tools to prevent fraud from happening, requirements
583 for providers and suppliers to establish plans on how they
584 will prevent fraud and enhance data collection that allows
585 CMS, the Department of Justice, and the states and other
586 federal health programs to share information. The new law
587 does something else that is also important. It creates
588 enhanced oversight of private insurance abuses. Waste,
589 fraud, and abuse are not confined exclusively to Medicare and
590 Medicaid. In fact, some of the most egregious examples of
591 waste of beneficiary dollars happen in the private sector.
592 Beginning tomorrow, it will be illegal for insurance
593 companies to rescind policies once a person gets sick.
594 Children with pre-existing conditions can no longer be denied

595 coverage. Young adults up to age 26 can remain on their
596 parent's health care plan, and lifetime limits on health care
597 coverage will be a thing of the past.

598 Furthermore, insurance companies will be required to
599 publicly disclose and justify minimum increases. They will
600 have to provide rebates to customers if their non-medical
601 costs exceed 15 percent of the premium cost in the group
602 market or 20 percent in the small group and individual
603 market. Despite all the doomsday predictions that we have
604 heard during the health care reform debate these waste,
605 fraud, and abuse provisions are proof that the new law is
606 working and is in the interest of the American people. Mr.
607 Chairman, again I thank you for recognizing me, and I commend
608 you for your leadership in this matter and yield back the
609 balance of my time.

610 [The prepared statement of Mr. Dingell follows:]

611 ***** COMMITTEE INSERT *****

|
612 Mr. {Pallone.} Thank you, Chairman Dingell. Our next
613 member for an opening statement is the gentleman from Iowa,
614 Mr. Braley.

615 Mr. {Braley.} Thank you, Mr. Chairman. Since I joined
616 this subcommittee, I have focusing on the importance of
617 addressing the enormous problem of waste, fraud, and abuse
618 not only in Medicare and Medicaid but also in the private
619 sector as the Chairman Emeritus noted. The problem of fraud
620 gets the lion's share of public attention, and that 60
621 Minutes program on October 28 of last year is a good example
622 of that. It showed people who were leaving careers as drug
623 dealers in Florida because they could make more money in
624 Medicare fraud. And they talked in that program about the
625 enormous financial cost of Medicare fraud, and they use the
626 figure of \$60 billion a year. But the real elephant in the
627 room, pun intended, is the problem of waste in health care
628 delivery, and one of the most important books ever given to
629 me was by a doctor in Cedar Falls, Iowa named Jim Young, and
630 the book is Over Treated by Shannon Brownley, why too much
631 medicine is making us sicker and poorer.

632 And in this groundbreaking publication she cites many
633 health care researchers including many medical economists,
634 and she speaks specifically of the work done at the group at

635 Dartmouth Atlas where they estimated that as much as 30
636 percent of medical care paid by Medicare as well as private
637 insurers is useless, unneeded, a waste. As of 2006 when the
638 total health care budget reached \$2 trillion, Americans were
639 spending as much as \$700 billion a year on health care that
640 not only did them no good but caused unnecessary harm. And
641 one of the biggest driving factors in this waste and over
642 utilization problem is the provision of unnecessary care.
643 One of the biggest problems we have is the enormous cost of
644 prescription drugs in this country.

645 Americans consume about \$200 billion worth of
646 prescription drugs a year, and it used to be that the drug
647 industry itself advocated against direct consumer marketing.
648 In fact, our Chairman Emeritus held hearings on this in 1985
649 and had the leading pharmaceutical manufacturers testify in
650 response to his questions, and they were on record as saying
651 direct to consumer advertising would make patients
652 extraordinarily susceptible to product promises. We believe
653 direct advertising to consumers introduces a very well
654 possibility of causing harm to patients and advertising would
655 have the objective of driving patients into doctor's offices
656 seeking prescriptions. Guess what? That is exactly what is
657 happening. The drug industry has completely changed their
658 position on direct to consumer and direct to physician

659 marketing.

660 So we have an enormous challenge, and that is why I
661 commend both of my colleagues. We need to make this a
662 bipartisan focus of our work in Congress because the American
663 taxpayers can't afford to continue to sustain wasteful and
664 fraudulent spending with their tax dollars. And I yield back
665 the balance of my time.

666 [The prepared statement of Mr. Braley follows:]

667 ***** COMMITTEE INSERT *****

|
668 Mr. {Pallone.} Thank the gentleman. And I think our
669 last member is the gentleman from Texas, Mr. Green.

670 Mr. {Green.} Thank you, Mr. Chairman. Hearing so many
671 opening statements, my opening statement is basically the
672 same as other members. None of us support fraud or abuse in
673 the Medicare-Medicaid programs. It is so important to our
674 constituents to have this option. But following my
675 Republican colleagues, I would say in 2003 a number of us on
676 our side didn't vote for the prescription drug bill because
677 of the flaws in it, but I don't remember saying we were going
678 to defund it. We wanted to fix it. And there are things I
679 would like to fix in the health care bill that I would hope
680 we could work across the aisle and do it, but to start out
681 every hearing we have on trying to deal with health care to
682 say that the health care bill that is now the law, it is the
683 law of the land, and we are going to work to make it happen
684 because it is something that has been needed for at least my
685 whole lifetime. So with that, Mr. Chairman, I would like to
686 place my full statement in the record and look forward to
687 hearing from our witnesses.

688 [The prepared statement of Mr. Green follows:]

689 ***** COMMITTEE INSERT *****

|

690 Mr. {Pallone.} Thank the gentleman. Any member who
691 seeks to put their statement in the record is certainly
692 entitled to do so and so ordered. I think we have heard from
693 all the members, so we will now go to our witnesses, and our
694 first panel is, of course, the congressional panel. We have
695 the Honorable Peter Roskam from Illinois, and the Honorable
696 Ron Klein from Florida. And I appreciate you taking your
697 time today to appear before us, and I guess it shows us this
698 is an important issue the fact that you are here. So we will
699 start with Congressman Roskam.

|
700 ^STATEMENTS OF HON. PETER ROSKAM, A REPRESENTATIVE IN
701 CONGRESS FROM THE STATE OF ILLINOIS; AND HON. RON KLEIN, A
702 REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

|
703 ^STATEMENT OF HON. PETER ROSKAM

704 } Mr. {Roskam.} Thank you, Mr. Chairman, and Ranking
705 Member Shimkus. I really do appreciate the opportunity to
706 just spend a couple minutes with you. I want to tell you a
707 quick story. Ten years ago or so, my wife and I were
708 traveling overseas, and I decided to save a couple of bucks
709 and we were going to take the subway in Budapest, which upon
710 reflection is a very foolish thing to do. So I am in a
711 Budapest subway and I get pick-pocketed. Now from the time
712 that I got out of the subway to the time I got back to the
713 hotel room, I had gotten a notice from the credit card
714 company that said there is \$10,000 that is poised on your
715 card. Did you put stereo equipment on the street an hour
716 ago? And, of course, I didn't, and they shut it off.

717 Now Chairman Pallone in his opening statement said a
718 phrase that I think really encapsulates this whole drama, and
719 the question is he said what we need to do is to concentrate
720 on heading off bad actors before they strike. Now I

721 understand the drama, the back and forth about the current
722 health care law. One of the things that I think that is in
723 the current health care law that is a gesture in the right
724 direction even though I opposed it is some of the things,
725 some of the anti-fraud elements of it, some of the enhanced
726 penalties, and so forth, and that is an area where there is
727 really a lot of common ground. My hunch is that based on
728 these very, very large numbers that we are talking about that
729 we need a larger gesture.

730 And let me walk through a piece of legislation that I
731 have introduced. It got sort of a favorable mention by Nancy
732 Ann DeParle in the White House. We had a good conversation
733 and meeting about it. It was in President Obama's outline
734 that he sent up to the Hill. It didn't make it through on
735 final passage. But I think it is an area where there is a
736 lot of interest and a lot of common ground, and even with
737 meetings that I have had with HHS, I haven't sensed any
738 defensiveness. It is more a sense of how do we actually
739 implement something like this and how do we go about doing
740 it? Let me just go back one quick second. The
741 Administration reports that about a little over 7 percent or
742 \$24 billion in improper payments in Medicare fee for service
743 is paid out, and that is sort of in the range of all your
744 analysis that you have been talking about. But I think there

745 is a weakness in the analysis in that it is really only
746 looking at overpayments and underpayments. It is not looking
747 at the type of fraud that you were all addressing in your
748 opening statements.

749 So I think the President to reach this goal that he set
750 out, which is an excellent goal of cutting fraud in half by
751 2012, he is going to need more tools, and I think that we can
752 help to get more tools. The increased data sharing, some of
753 the things that Mr. Dingell mentioned, the reorganization of
754 program integrity efforts, greater compliance efforts,
755 additional funding for enforcement efforts, every dollar that
756 goes in on the enforcement side comes out as about \$17 saved
757 so this is an area that is ripe for investment. But my bill
758 is H.R. 5546, which is called the Fighting Fraud with
759 Innovative Technology Act, and it uses this predictive
760 modeling, and essentially it doesn't wait for the bills to go
761 out the door but it uses the same type of technology that the
762 credit card companies have used. Let us put this into
763 context. Credit card companies right now within the global
764 economy, there is \$11 trillion of credit card transactions
765 every year. Just let that number sink in for a second.

766 The type of fraud that they are dealing with is .047
767 percent. Contrast that with the type of numbers we have been
768 talking about this morning on the order of 10 percent. Okay.

769 CMS currently uses a limited application of prepayment
770 screening, editing, and selector review of claims conducted
771 by Medicare administrative contractors. Most resources are
772 utilized on post-payment review activities by zone program
773 integrity contractors and recovery audit contractors. But
774 the fraudsters continue to be one step ahead of our current
775 ruled and edits-based automated claims processing.
776 Predictive modeling this approach can detect fraudulent
777 claims that traditional rule-based edits simply can't
778 identify. CMS is currently developing an integrated data
779 repository that will eventually contain all provider data
780 that can be mined but this will still be post-payment.
781 Predictive modeling scores a claim to identify claims that
782 have a high probability of fraud.

783 A predictive model creates an estimated score on claims
784 using historical data, and that estimate is then applied to
785 new claims that are being submitted. The predictive model is
786 always evolving, improving, and adapting to provider and
787 patient behavior. So, in other words, highly suspicious
788 claims are subject to manual review to provide false positive
789 and to provide self audit appeal process, which is
790 encouraged. Following successful implementation to the
791 Medicare program you could contemplate rolling this out for
792 other elements of federal health care claims but my

793 suggestion is let us creep and crawl and walk and let us
794 start with focusing in on Medicare. That is basically this
795 bill in a nutshell. And my sense is that there is an
796 opportunity for us to come together and really to give the
797 Administration the tools they need, to give a whole host of
798 folks the tools they need because the approach that we have
799 taken up until now has just under performed, and I think even
800 in the health care law there are things that are going to be
801 beneficial from an ant-fraud point of view but I think it is
802 going to be beneficial on the margins.

803 I think the heart of this is to change the entire
804 paradigm and to change that entire paradigm we need to do the
805 type of predictive modeling. And it is not like it is open
806 field running. In other words, it is not as if this hasn't
807 been tried and this is a fool's errand. This is something
808 that has been tried and demonstrated, and I think toward that
809 end I submit my bill for your consideration as you are moving
810 forward for possible solutions. Thank you.

811 [The prepared statement of Mr. Roskam follows:]

812 ***** INSERT 1 *****

|
813 Mr. {Pallone.} Thank you. Congressman Klein.

|
814 ^STATEMENT OF HON. RON KLEIN

815 } Mr. {Klein.} Thank you, Mr. Chairman. And I would like
816 to thank the ranking member and Chairman Waxman and Chairman
817 Emeritus, Mr. Dingell, for leadership in Medicare over the
818 years as well. I join Mr. Roskam and all of you in trying to
819 find some solutions to this big issue. The bill that I am
820 submitting for your consideration is drawn up with Ileana
821 Ros-Lehtinen from Miami. It is H.R. 5044. It is called
822 Medicare Fraud Enforcement and Prevention Act. As Ms. Castor
823 mentioned, she and I both represent large areas of south
824 Florida and west Florida, which include large numbers of
825 Medicare participants. And, unfortunately, in particular
826 there have been large concentrations of Medicare fraud. You
827 know the story about go where the money is, and this seems to
828 be one of those areas that it absolutely follows through.

829 I think we all have had constituents, and I can share
830 with you the stories of constituents that come to my office
831 with sheets of billing which is just outrageous, repetitive,
832 false information, all sorts of things, and literally just
833 pages and pages of the same services in some cases billed
834 over and over again. I am not suggesting this is the norm
835 but we know that there are lots of cases and the billions and

836 billions of dollars which add up to this, and the question is
837 why and how can we address it. I think we know it is
838 deplorable for all of us to allow our seniors to be preyed
839 upon by these criminals. And, by the way, they are not all
840 small time criminals. There is organized crime behind this.
841 It is large scale in this type of approach. We know who
842 loses from Medicare fraud. It is obviously the people who
843 provide the services whether they be doctors, hospitals,
844 legitimate providers, people who are on the receiving end who
845 want to get the best benefit for the dollars that they have
846 contributed, and taxpayers. All of us are taxpayers. We are
847 all paying in every year with a view that Medicare will be
848 there for us.

849 So in short we all are losers when a criminal commits
850 Medicare fraud and we have an obligation to fight back. Our
851 bill takes a comprehensive approach at attacking criminals
852 who seek nothing more than ripping off Medicare, as I said,
853 and preying on seniors. And the way we are approaching it
854 picks up on some of the things that Mr. Roskam said. We had
855 a chance to meet with a number of the strike force people
856 down in Florida. We met with the FBI, we met with law
857 enforcement, we met with the Inspector General's Office, we
858 met with committee staff to try to really get a comprehensive
859 view on what are the specific things that can be done. And

860 what we have come up with are a number of things. Number
861 one, on the law enforcement side to make much more
862 significant the criminal penalties for committing these acts.
863 That is a very common sense approach here but a slap on the
864 wrist is unacceptable.

865 If someone is going to commit this kind of fraud,
866 obviously, it is fines and criminal penalties, but for the
867 same reason we know that many of the people who commit the
868 fraud many times are gone, and those of us who live in areas
869 where they are bordering under parts of other countries they
870 are out of here. I mean once they collect their checks, they
871 are leaving the country or they are going somewhere else.
872 So, yes, it is good to have a deterrent factor in place and
873 have a much more substantial way of setting out a deterrence
874 and saying if you do this you will be in prison for a long
875 time and you will pay significantly. That is appropriate,
876 and that is part of this bill. But the second part of it is
877 what we all know is the pay and chase issue and that is what
878 we have been talking about, and that is people get this
879 Medicare provider number in a very simple way.

880 The due diligence, the checking, the verification is
881 unfortunately not what it should be. So what we have done is
882 we have put a number of things in place in our proposal which
883 gets to the point of providers and suppliers before they can

884 get their Medicare number and go off to the races of having a
885 much more thorough pre-screening measure through use of
886 technology and a lot of other things. And this is the way to
887 stay ahead of the criminals. Once they get the number, they
888 are getting the checks. And even to the point where our bill
889 makes it a much more significant crime to be a part of this
890 whole process by selling your number to others.

891 Unfortunately, in south Florida you have heard the cases
892 where lots of senior citizens are getting paid to have their
893 number used. And, again, 20, 30 bucks, and obviously that
894 individual number is being used for a significant multiplier.

895 Another issue that we found is a flaw in the system, the
896 unnecessary gaps in time when a fraudulent claim is submitted
897 and when the law enforcement agency is alerted. That is a
898 time squeeze that needs to be reduced down to nothing. We
899 met with a local Medicare administrator contractor for
900 Florida and though they chose to have some sophisticated
901 computer system to check for anomalies, they only download
902 this information once a week. Well, only downloading once a
903 week it goes to the point of credit card information, this
904 isn't rocket science. This can be done. It can be done in
905 real time. It is all technology-based and it can be done in
906 real time. So, again, it is just another specific solution
907 to the problem.

908 And, of course, this whole notion of providing law
909 enforcement with more resources, more persons on the ground,
910 I am a big believer in this case to spend a little more money
911 to save substantially more money I think is an appropriate
912 investment here. So these are some of the ideas in our bill
913 that we would ask you to take a look at. Time is of the
914 essence. Every day that passes millions more goes out the
915 door into criminals' hands, and, more importantly, it doesn't
916 go to the people who need to provide those services and to the
917 people who are paying for them. As we said before, this is a
918 bipartisan issue. I am very proud to work with Ileana Ros-
919 Lehtinen, Mr. Roskam. And many of you I know have already
920 talked about in your opening statements and you have lots of
921 ideas from back home. So we look forward to working with
922 you, Mr. Chairman, and the whole committee in working and
923 creating some legislation whether it is mine or his or
924 anybody else's to pass something as we are going to pass a
925 piece of our bill and a piece of these bills this week on
926 dealing with Medicare, and we are very proud to be
927 participating in that. But we look forward to working with
928 all of you on this.

929 [The prepared statement of Mr. Klein follows:]

930 ***** INSERT 2 *****

|
931 Mr. {Pallone.} I want to thank both of you, and
932 certainly going to keep your legislative initiatives in mind
933 as we move forward. That is what this is all about, and so I
934 appreciate your coming today. Our practice is not to have
935 questions of members, so I am going to proceed. Thank you
936 for being here. I really appreciate it.

937 And we will ask the next panel to come forward. Thank
938 you both. Let me introduce the two of you. On my left is
939 the Honorable Daniel Levinson, who is Inspector General,
940 Office of the Inspector General, U.S. Department of Health
941 and Human Services, and to my right is Dr. Peter Budetti, who
942 is Deputy Administrator for Program Integrity at the Center
943 for Medicare and Medicaid Services, again with the U.S.
944 Department of Health and Human Services. I want to welcome
945 you. Thank you for being here today. We try to have you
946 limit your comments to 5 minutes, if possible, and then we
947 will take some questions. I will start with Mr. Levinson.

|
948 ^STATEMENTS OF HON. DANIEL LEVINSON, INSPECTOR GENERAL,
949 OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF HEALTH
950 AND HUMAN SERVICES; AND PETER BUDETTI, M.D., DEPUTY
951 ADMINISTRATOR FOR PROGRAM INTEGRITY, CENTER FOR MEDICARE AND
952 MEDICAID SERVICES, U.S. DEPARTMENT OF HEALTH AND HUMAN
953 SERVICES

|
954 ^STATEMENT OF DANIEL LEVINSON

955 } Mr. {Levinson.} Good morning, Chairman Pallone, Ranking
956 Member Shimkus, and members of the subcommittee. Thank you
957 for the opportunity to testify about those tools in the
958 Affordable Care Act that will help to combat fraud, waste,
959 and abuse in the Medicare and Medicaid programs. OIG has
960 been leading the fight against health care fraud, waste, and
961 abuse for more than 30 years in collaboration with the
962 Department of Justice and our colleagues at CMS. Although
963 there is no precise measure of health care fraud, we know
964 that it is a serious problem demanding an aggressive
965 response. Over the past fiscal year, OIG has opened over
966 1,300 health care fraud investigations and obtained over 500
967 convictions. OIG investigations also have resulted in nearly
968 \$3 billion in expected civil and criminal recoveries.

969 Despite such successes there is more to be done. Those
970 intent on breaking the law are becoming more sophisticated
971 and the schemes more difficult to detect.

972 Fraud is migratory and adaptive. Criminals quickly
973 modify and relocate their schemes to evade enforcement
974 efforts. In response, the government is working to stay
975 ahead of these schemes. Fraud will never be completely
976 preventable so we must investigate and prosecute before the
977 criminals and stolen funds disappear. New tools and
978 resources provided in the Affordable Care Act will help us to
979 do just that. My written testimony describes more fully how
980 provisions in the Act will support the government's efforts.
981 For example, OIG's work has demonstrated that it is too easy
982 to obtain billing privileges and defraud the system. Anyone
983 who wants to keep their home safe begins by doing something
984 very simple, locking the front door.

985 We need to do the same with Medicare. The Affordable
986 Care Act strengthens the screening process to prevent
987 criminals from enrolling as Medicare providers and suppliers.
988 It also provides OIG new authority to respond to enrollment
989 fraud. For example, entities that provide false information
990 on an application to enroll or participate in a federal
991 health care program are now subject to monetary penalties and
992 exclusion from the federal health care programs. When

993 criminals make it through the front door and suspected theft
994 occurs the action of payment suspension authority strengthens
995 Medicare's ability to curb taxpayer losses. In addition, the
996 Act authorizes longer prison terms and stiffer penalties for
997 health care fraud. Put simply, criminals who commit health
998 care fraud are going to be cut off from the Medicare trust
999 funds faster, face longer prison terms, and be subject to
1000 larger criminal fines.

1001 The Act includes new transparency requirements that will
1002 shine light on financial relationships and potential
1003 conflicts of interest. Public disclosure of ties between
1004 drug and device manufacturers and physicians will help the
1005 government and the public monitor financial relationships and
1006 should deter kickbacks. The Act also requires nursing
1007 facilities to report ownership and control relationships.
1008 This will make it harder for unscrupulous corporate owners to
1009 avoid responsibility for substandard care in their nursing
1010 homes. The Act also empowers honest providers to do the
1011 right thing. Under the Act providers and suppliers will
1012 adopt compliance programs that meet a core set of
1013 requirements. Well-designed compliance programs can be an
1014 effective tool for preventing fraud and abuse. OIG has
1015 provided compliance guidance to providers for more than a
1016 decade. We will also conduct compliance training programs

1017 for providers, compliance professionals, and attorneys across
1018 the country in 2011.

1019 The training will empower well-intentioned providers to
1020 identify fraud risk areas and best practices to avoid fraud
1021 schemes that may be targeting their communities. Finally,
1022 the Affordable Care Act provides new funding, \$350 million
1023 over the next 10 years, that will expand and strengthen the
1024 government's program integrity efforts. Thank you for your
1025 support of OIG's mission, and I would be happy to answer your
1026 questions.

1027 [The prepared statement of Mr. Levinson follows:]

1028 ***** INSERT 3 *****

1029

|

Mr. {Pallone.} Thank you, Mr. Levinson. Dr. Budetti.

|
1030 ^STATEMENT OF PETER BUDETTI, M.D.

1031 } Dr. {Budetti.} Chairman Pallone, Ranking Member
1032 Shimkus, Chairman Emeritus Dingell, and other distinguished
1033 members of the subcommittee, I am Peter Budetti, and I am
1034 privileged to hold the new position at the Center for
1035 Medicare and Medicaid Services as the Deputy Administrator
1036 for Program Integrity where I have the opportunity to address
1037 many of the issues that have been raised this morning. The
1038 Center for Medicare and Medicaid Services are very pleased to
1039 have the new tools to fight fraud and reduce waste and abuse
1040 in the Medicare and Medicaid programs that were given to the
1041 Secretary, to the Department of Health and Human Services in
1042 the Affordable Care Act of this year, and I am delighted to
1043 be here to discuss those with you. I am very pleased to
1044 share this panel with my distinguished colleague in fighting
1045 health care fraud, the Honorable Dan Levinson, Inspector
1046 General of the Department of Health and Human Services. We
1047 are committed to enhancing the collaborative working
1048 relationship between CMS and the Office of the Inspector
1049 General, and I believe we have made significant progress in
1050 doing so since we embarked on this endeavor.

1051 On a personal note, I am honored to be appearing before

1052 the subcommittee that I had the distinct privilege of serving
1053 as counsel for some 6 years. The Affordable Care Act is the
1054 most far-reaching health care law since the inception of
1055 Medicare and Medicaid. We greatly appreciate the new and
1056 expanded authorities and are excited about using the tools
1057 that Congress has provided to CMS in the Affordable Care Act.
1058 Most important, with the implementation of these provisions
1059 that were provided by Congress is that CMS is looking, as
1060 many of you have mentioned this morning, to fundamentally
1061 shift program integrity activities beyond pay and chase to
1062 fraud prevention.

1063 Even as we apply new technologies and methods to
1064 detecting and pursuing the fraudulent activities of dishonest
1065 or phony providers or suppliers, and as we continue our
1066 efforts to recover overpayments made for false claims CMS is
1067 not focused on preventing either of these events from ever
1068 occurring in the first place. Our goal is to turn off the
1069 pipeline of fraudulent activity before it develops. We will
1070 do this in 2 ways, working with legitimate providers and
1071 suppliers to ensure compliance with the program requirements
1072 and taking new measures to keep dishonest ones out of the
1073 programs and to avoid paying fraudulent claims. Our fraud
1074 prevention initiatives stem from our first priority which is
1075 to help provide our beneficiaries with the health care that

1076 they need. Precious public resources must not be diverted
1077 from that core purpose.

1078 To that end, working with states and law-abiding
1079 providers and suppliers, to protect beneficiary access to
1080 needed health services, medicines and supplies is the number
1081 one goal of our program integrity work. With beneficiary
1082 interests in mind as we continue the process of implementing
1083 these authorities and improving our program integrity, we
1084 must do so in a way that is fair and transparent to health
1085 care professionals, other providers and suppliers who are our
1086 partners in caring for beneficiaries. Maintaining this
1087 partnership is an important aspect of our program integrity
1088 work. As we implement these new authorities, we have
1089 significant opportunity to build on our existing efforts to
1090 combat waste, fraud, and abuse. The new authorities offer
1091 more front-end protections to keep those who are intent on
1092 committing fraud out of the programs and new tools for
1093 determining wasteful and fiscally abusive practices,
1094 identifying and addressing fraudulent payment issues
1095 promptly, and ensuring the integrity of the Medicare and
1096 Medicaid programs.

1097 We also now have the flexibility to tailor our resources
1098 and activities in previously unavailable ways which we
1099 believe will greatly support the effectiveness of our work.

1100 As an example of this, on September 17 CMS posted a Notice of
1101 Proposed Rulemaking that will implement several of the key
1102 anti-fraud authorities in the Affordable Care Act that go a
1103 long way towards enabling us to keep the bad actors out and
1104 to avoid paying fraudulent claims. This includes new
1105 measures to screen providers and suppliers before they are
1106 allowed into the program to build the programs, new
1107 authorities to declare a temporary moratorium on enrollment
1108 for high risk areas of fraud in our program, authority to
1109 suspend Medicare and Medicaid payments for providers and
1110 suppliers pending investigation of credible allegations of
1111 fraud.

1112 Since this is a proposed rule, we look forward to
1113 receiving comments and feedback from all interested
1114 stakeholders and to working with the providers, suppliers,
1115 beneficiaries, law enforcement, and other key groups as we
1116 work to finalize this rule. This proposed rule builds on
1117 existing authorities and also on the rulemaking that we
1118 issued earlier this year that implemented the Affordable Care
1119 Act requirement for physicians and other professionals who
1120 order or refer Medicare-covered items or services to be
1121 enrolled in the Medicare program. Health care fraud is a
1122 national problem. The loss of taxpayer dollars through
1123 waste, fraud, and abuse diverts those funds from supporting

1124 needed health care and drives up health care costs.
1125 Reversing this problem will require a sustained approach,
1126 brings together federal and state and local governments and
1127 law enforcement, beneficiaries, health care providers, and
1128 the private sector in a collaborative partnership effect
1129 relationship.

1130 This Administration is strongly committed to minimizing
1131 waste, fraud, and abuse in federal health care programs. The
1132 President demonstrated this commitment with his executive
1133 order in setting a target to reduce improper payment rates in
1134 half by 2012, and we are committed to meeting the President's
1135 goal. The Administration has made a firm commitment to
1136 reigning in fraud and wasteful spending and with the
1137 Affordable Care Act we have more tools than ever to implement
1138 important and strategic changes. CMS thanks the Congress for
1139 providing us with these new authorities, and we look forward
1140 to working with you in the future as we continue to make
1141 improvements in protecting the integrity of federal health
1142 care programs and safeguarding taxpayer resources. Thank
1143 you, and I look forward to answering your questions.

1144 [The prepared statement of Dr. Budetti follows:]

1145 ***** INSERT 4 *****

|

1146 Mr. {Pallone.} Thank you both, and now we will have
1147 some questions, and I will start with by recognizing myself.
1148 In the health care reform bill there is provision, you know,
1149 to improve Medicare and Medicaid's fight against fraud, as
1150 both of you said, in many different ways. Dr. Budetti, in
1151 your testimony you described the shift in fraud-fighting
1152 tactics that will come about as a result of these new
1153 approaches as moving away from pay and chase towards a more
1154 preventive approach. And, of course, the hallmark of health
1155 care reform is prevention. So I wanted to ask each of you in
1156 Dr. Budetti's case, what do you mean when you talk about
1157 shifting away from the pay and chase approach to reducing or
1158 towards a more preventative approach?

1159 Dr. {Budetti.} Mr. Chairman, the 2 questions I have
1160 been asked most frequently since I took this position are the
1161 ones that I am sure that will come as no surprise to anyone,
1162 which is why do you let those crooks in the program and why
1163 do you pay them when their claims are fraudulent? And our
1164 approach to moving away from pay and chase recognizes the
1165 fact that we now have people getting into the program,
1166 billing the program who disappear before they can be chased
1167 and who have no assets when we track them down. Pay and
1168 chase evolved from the core purpose of the Medicare and

1169 Medicaid programs which was, and is, to provide services to
1170 beneficiaries and to do that we need to get providers into
1171 the program quickly and we need to pay them promptly, but
1172 that speaks to legitimate providers and legitimate claims for
1173 the correct services.

1174 What we need to recognize now is that not everyone who
1175 is getting into the program and who is billing the program
1176 will be there when we chase after them. So moving from the
1177 traditional approach, which is always going to be necessary,
1178 to go beyond that to preventing the problems in the first
1179 place will mean two things in particular. Number one,
1180 keeping people out, and to do that we are implementing new
1181 screening techniques, new screening measures. The Notice of
1182 Proposed Rulemaking that we just published speaks to this by
1183 putting providers and suppliers following the terms of the
1184 statute into different categories of risk and applying
1185 different levels of screening to different levels of risk,
1186 and that is an important step forward.

1187 And then in terms of not paying fraudulent claims, we
1188 are implementing the--proposing to implement, the new
1189 authority that allows us to withhold payments when there is a
1190 credible allegation of fraud, which we work closely with the
1191 Inspector General on determining what a credible allegation
1192 of fraud is. So moving away from pay--moving beyond pay and

1193 chase, I should say, to preventing these problems in the
1194 first place is an important aspect of what we are doing at
1195 the Center for Medicare and Medicaid Services.

1196 Mr. {Pallone.} Let me ask Mr. Levinson, can you tell us
1197 about some of the benefits you expect to see when these
1198 provisions are put into effect?

1199 Mr. {Levinson.} Mr. Chairman, I think it is going to be
1200 especially helpful to strengthen the enrollment standards.
1201 As I said in my opening statement, to lock the front door.
1202 So much of the problem that we have experienced in so many
1203 parts of the country have to do with the ease with which
1204 historically you have been able to get a provider number.
1205 And I would only elaborate on Dr. Budetti's answer just by
1206 noting that my understanding is that historically when the
1207 program was much smaller and simpler, perhaps the government
1208 even knew who it was doing business with, there was an
1209 emphasis on ensuring prompt payment to providers to make sure
1210 that doctors and others would want to participate in the
1211 Medicare program. And what has occurred over time is that
1212 the government has not kept pace with the enormous change,
1213 the explosion in size of the program, the increased
1214 sophistication of health care delivery and services, and
1215 certainly in the modern era too often the government doesn't
1216 know who it is doing business with.

1217 And it has been an interesting experience for us in
1218 south Florida, just to give you one example, in the year
1219 following our anti-fraud strike force work in the south
1220 Florida area, DME billing dropped \$1-3/4 billion in south
1221 Florid alone just by virtue of people getting the signal that
1222 the government was actually watching. So the strengthening
1223 of enrollment standards, it would be hard to exaggerate the
1224 importance that that will play, I think, in making sure that
1225 those masquerading as health care providers don't get in the
1226 program in the first place. It is not a panacea. And there
1227 are many other fraud, waste, and abuse issues that occur in
1228 other aspects of the system. But I would certainly emphasize
1229 first and foremost the importance of strengthening the
1230 enrollment standards that is included in the ACA.

1231 Mr. {Pallone.} I appreciate this. I think it is
1232 interesting because I was talking about prevention and
1233 preventative care in the context of health care reform. I
1234 hadn't thought about prevention in terms of the fraud aspect
1235 so much but obviously that is really crucial, and so I am
1236 glad to hear that what we are doing has the real potential to
1237 make a difference. Thank you both. Mr. Shimkus.

1238 Mr. {Shimkus.} Thank you, Mr. Chairman. I appreciate
1239 our panel today. It is a very important issue. Before I go
1240 on to this, let me just again put on the record 6-month

1241 anniversary, no Secretary Sebelius, no CMS Administrator
1242 Berwick, no CMS actuary to give us an analysis on the new
1243 health care law. We are more than willing to talk about the
1244 good and the bad, the good policies. Republicans repeal and
1245 replace, does talk about a lot of the positive things that
1246 went on through the law. But we still have to continue to
1247 make the point that we are 6 months into a new law without a
1248 hearing on the law. Maybe some specific provisions like this
1249 one so that is why it is important, but this is our only
1250 venue. So people have to understand. Other than 1-minute
1251 speeches or 5-minute speeches or special orders, which is not
1252 really the venue for talking policy. I know my colleagues
1253 get frustrated but we are just doing our job.

1254 This is a really great discussion, and it is a great
1255 discussion because it really highlights the health care
1256 debate in the aspect of--let me just ask a simple question
1257 first. If we go after this process and try to clean it up
1258 before the checks go out the door, do our admin costs go up?
1259 I am just talking about the administrative costs to be able
1260 to have a cleaner system to protect the system for sending
1261 fraudulent checks out the door. Mr. Levinson?

1262 Mr. {Levinson.} Mr. Shimkus, I think you have put your
1263 finger on a very important question concerning the whole role
1264 of IT in being able to really master the system as opposed to

1265 simply respond to it, and our office will certainly be
1266 looking very closely as this more consolidated and integrated
1267 system actually unfolds over the course of the next year or
1268 the next 2 years. We certainly have been able to use real
1269 time data just by coordinating better with CMS, with the
1270 Department of Justice. Our strike force teams have been
1271 operating in multiple cities now--

1272 Mr. {Shimkus.} Let me interrupt because my time is real
1273 short, but administrative costs are going to go up. New IT
1274 programs, new surveillance. I mean there is a higher cost
1275 for this on the admin side, is that safe to say?

1276 Mr. {Levinson.} Well, I mean from an audit side, which
1277 is certainly part of our office, we will look back to see,
1278 you know, exactly how costs have been accounted for but--

1279 Mr. {Shimkus.} But we got to change the way we are
1280 doing business now because we don't have the folks to audit
1281 on the front end. Dr. Budetti.

1282 Dr. {Budetti.} Thank you, Mr. Shimkus.

1283 Mr. {Shimkus.} It is not a trick question.

1284 Dr. {Budetti.} No, I understand. I think it is very
1285 important, I think, for us to keep in mind that the
1286 expenditures that have been made over the years since the
1287 health care fraud and abuse control program was established
1288 have been wise investments by the Congress.

1289 Mr. {Shimkus.} The question is to clean up the system,
1290 is there more admin cost?

1291 Dr. {Budetti.} I am not sure whether--

1292 Mr. {Shimkus.} Here is my point. I only have a minute
1293 left or 2 minutes left. Here is my point. In this whole
1294 health care debate we have always demagogued the health
1295 insurance companies because they do what you want to get to.
1296 They have higher administrative costs which is what has been
1297 demagogued for years here. Why do they have higher admin
1298 costs? Because they are trying to make sure that the checks
1299 don't go out the door. We send the checks out the door and
1300 then we take a 3 or 4 or 5-year process of trying to figure
1301 out who stole the money. So what we are saying in reforms
1302 here, and I am with you, okay, we have to spend more money.
1303 We are going to have to update our IT. We have to have a
1304 process to stop the checks before they go out the door and,
1305 guess what, this is part of the opening statement, what is
1306 going to happen?

1307 And I agree, it is because we pushed prompt payment and
1308 we want early enrollment. We don't want anybody--every time
1309 we spend money fast here whether it is Iraq, whether it is
1310 Katrina, any time we are throwing money at a problem we find
1311 fraud and abuse. So we want to have a quick response to get
1312 people their money because it is a fee for service system but

1313 this is how we responded. We may end up withholding payments
1314 until we have an idea of whether--that is what happens now in
1315 the insurance industry and people are frustrated to heck
1316 because they are saying, oh, the evil insurance. I can't get
1317 my payment. Well, they are going it to make sure that--so
1318 now part of our reforms will probably take some of the
1319 practices that the profitable evil insurance companies are
1320 doing and roll it into government services to make sure we
1321 are not ripped off. So that is my take away. I think it is
1322 important to do. My time has expired, Mr. Chairman, and I
1323 yield back.

1324 Mr. {Pallone.} Thank you. Chairman Dingell.

1325 Mr. {Dingell.} Thank you, Mr. Chairman. Gentlemen, we
1326 appreciate your testimony here. These questions relate to
1327 funding to fight fraud. The Affordable Care Act increased
1328 mandatory funding for the health care fraud and abuse control
1329 fund by \$300 million and index funding for the health care
1330 fraud and abuse control fund and the Medicare and Medicaid
1331 integrity programs to make sure it keeps up with inflation.
1332 Overall funding to fight fraud will increase by about \$500
1333 million over the next decade. Gentlemen, can you each
1334 discuss the need for the increased funding to fight fraud and
1335 can you give us some examples of how you will spend these new
1336 resources.

1337 Mr. {Levinson.} Mr. Dingell, it has been exceedingly
1338 helpful to see a rise in funding for the health care fraud,
1339 anti-fraud control program after many years of essentially
1340 plateau expenditures for this vital program that really
1341 partners our office with the Department of Justice and with
1342 CMS to fight health care fraud in both the Medicare and the
1343 Medicaid program.

1344 Mr. {Dingell.} When will you be able to spend these
1345 additional funds and what benefit will that occur to the
1346 public?

1347 Mr. {Levinson.} Some of the dollars we are looking to
1348 enhance and expand the strike force operations, some of which
1349 you actually spoke to in your statement earlier this morning.
1350 In Detroit, the July strike force operations, just to give an
1351 example, resulted in 94 indictments in 5 cities, including
1352 Detroit that involved \$250 million in false billing for DME,
1353 home health, infusion, physical and occupational therapy.
1354 These strike force operations require resources. They
1355 require resources at the investigative end--

1356 Mr. {Dingell.} Which they have not had till now.

1357 Mr. {Levinson.} Well, as the programs have expanded
1358 over the course of the last 10 or 15 years, and Congress was
1359 well aware of the need to structure a program to fight health
1360 care fraud when in the mid-1990's as part of HIPA the health

1361 care fraud account was established, that account simply did
1362 not take into account, if you will, the explosion of dollars,
1363 the much larger programs that we have seen since the mid-
1364 1990's. So this is important both catch up to be able to
1365 devote resources at both the investigative and prosecutorial
1366 end as well as take into account the added cost of being able
1367 to handle this in a sophisticated, technologically savvy way
1368 that the 21st Century really requires.

1369 Mr. {Dingell.} Thank you. Dr. Budetti, what comments
1370 do you have, sir?

1371 Dr. {Budetti.} Yes, Chairman Dingell. We are going to
1372 be spending this--we are very grateful to the Congress for
1373 making this investment in fighting fraud. This is an
1374 important step forward, an important increment over the
1375 monies that were already scheduled to be in the health care
1376 fraud and abuse control program. We are going to be spending
1377 it responsibly to improve our enrollment and screening
1378 activities and processes to consolidate many of our
1379 contracting activities. We are going to be coordinating
1380 Medicare and Medicaid policies to the maximum extent that we
1381 can. And we will be implementing many of the advanced data
1382 and analytic techniques that have been discussed this morning
1383 as well as improving our data system so we view this as an
1384 important step forward in terms of being able to support the

1385 kinds of activities it will take to move beyond pay and chase
1386 to prevention.

1387 Mr. {Dingell.} Thank you, Doctor. Now, Mr. Levinson,
1388 it allows the Inspector General to exclude affiliates and
1389 officers of affiliates if a parent or sister company is found
1390 guilty of health care fraud. What advantage is this going to
1391 confer on you and the taxpayers and why is it necessary?

1392 Mr. {Levinson.} Mr. Dingell, it has been problematic
1393 for us to be able to actually pursue those who have engaged
1394 in wrongdoing in defrauding the system. It has been simply
1395 too easy for corporate officials to simply resign, to leave
1396 their corporate office. The laws right now are in the
1397 present tense so that the ability to exclude those found to
1398 have defrauded the system only work when they actually stay
1399 in place. Once they leave, we are not really able to pursue
1400 them. The ability to actually exclude and go beyond any
1401 particular corporate entity allows us in effect to pursue
1402 those who actually have engaged in the defrauding of the
1403 program and therefore will strengthen our ability to actually
1404 capture the people who are taken advantage of.

1405 Mr. {Dingell.} Thank you. Just do this, would you,
1406 please? Submit to the committee about other legislative
1407 changes or additions that you in your agency, and, you, Dr.
1408 Budetti, need to address the problems of fraud. For example,

1409 piercing the corporate veil of subsidiaries or affiliate
1410 companies, being able to seize assets of these corporations,
1411 being able to address the officers as opposed to just the
1412 corporation because getting the officer makes paying where it
1413 is most necessary and most needed, so if you would submit
1414 that to the record, I would appreciate it. Mr. Chairman, I
1415 thank you for your courtesy to me.

1416 Mr. {Pallone.} Mr. Dingell, you asked them to follow up
1417 with some written comments? I didn't hear you. Absolutely,
1418 any member who wishes to do so. The gentleman from Georgia,
1419 Mr. Gingrey.

1420 Dr. {Gingrey.} Mr. Chairman, thank you. I think we can
1421 all agree that there is no room for waste, fraud, and abuse
1422 in the Medicare program and to put taxpayer dollars at risk.
1423 It jeopardizes the integrity of our seniors' health care
1424 program. However, it seems that President Obama and the
1425 Democratic majority have a different view about what
1426 constitutes waste, fraud, and abuse. On July 30, 2009,
1427 President Obama promised that the health plan was funded by
1428 eliminating, and I quote, this is his quote, ``the waste that
1429 is being paid for out of the Medicare trust fund.'' And then
1430 on September 10, 2009, Speaker Pelosi said that Congress will
1431 pay for half of Obama Care by ``squeezing Medicare and
1432 Medicaid to wring out waste, fraud, and abuse.'' I want to

1433 ask the Inspector General, Mr. Levinson, do you feel that the
1434 \$137 billion cut in Medicare Advantage in the bill is rooting
1435 out waste and combating fraud in the Medicare fund?

1436 Mr. {Levinson.} Mr. Gingrey, that is beyond my
1437 portfolio to opine on.

1438 Dr. {Gingrey.} Let me ask you to opine on one other
1439 then. The CMS actuary says those cuts will cost 7.5 million
1440 seniors to lose their Medicare plan by 2017, and the benefit
1441 reductions that will result are expected to cost seniors on
1442 average \$250 in extra cost per month. Is charging seniors
1443 \$250 more a month on average for their Medicare ending waste
1444 or combating fraud?

1445 Mr. {Levinson.} I would be happy to defer to Dr.
1446 Budetti if he wants to answer that question.

1447 Dr. {Gingrey.} Well, let us let you do that. I will be
1448 happy to seek a response from Dr. Budetti on that particular
1449 question.

1450 Dr. {Budetti.} I believe comments by the actuary are
1451 also not part of my portfolio.

1452 Dr. {Gingrey.} All right. Well, let me shift back to
1453 Mr. Levinson then. Hospital reimbursement for Medicare
1454 seniors are being slashed by \$155 billion. This is to the
1455 hospital. The CMS actuary projected those cuts could drive
1456 about 15 percent of the hospitals and other institutions into

1457 the red and jeopardizing access to care for seniors. Is
1458 slashing hospital payments to the point where you threaten
1459 their ability to stay open and you are threatening seniors'
1460 ability to be able to find more that will treat them, is this
1461 ending waste or combating fraud, either Mr. Levinson or Dr.
1462 Budetti?

1463 Dr. {Budetti.} Speaking to our efforts to reduce waste
1464 and combat fraud, I mentioned in my opening remarks that our
1465 core commitment is to our beneficiaries, and to do that we
1466 need to have the legitimate providers and suppliers in the
1467 system as partners with us. We need to work with them and we
1468 need to support them. So our approach at our end of the
1469 spectrum working on the fraud, waste, and abuse is certainly
1470 to keep in mind the critical importance of beneficiary access
1471 and the fact that--

1472 Dr. {Gingrey.} I understand. My time is limited. I
1473 will ask one more question, and I will just ask it
1474 rhetorically because I understand what the answer would be
1475 from both Mr. Levinson and Dr. Budetti. The President and
1476 Speaker Pelosi also slashed billions of dollars for home
1477 health care and hospice. Hospice, as you know, provides the
1478 patients in the last 6 months of their life, those who are
1479 suffering in many cases from metastatic cancer. These cuts
1480 threaten the quality of health care for patients in the last

1481 stages of their lives. And, again, I would ask in your
1482 opinion is cutting hospice payments ending waste or combating
1483 fraud in the Medicare program, and our witnesses have already
1484 said to the previous questions this is not really in their
1485 jurisdiction.

1486 But, Mr. Levinson, this question, I think, is in your
1487 jurisdiction. These 30 provisions in Obama Care that result
1488 in \$6 billion, and this is the Congressional Budget Office
1489 estimate, not mine, \$6 billion in savings over 10 years, that
1490 is about half of one percent, and we are estimating here that
1491 we are wasting \$68 billion a year. In fact, the FBI says
1492 \$226 billion a year. We got 30 provisions in the bill that
1493 saves \$6 billion. Mr. Levinson, didn't you make
1494 recommendations to the Senate Finance Committee and indeed
1495 maybe even to this Committee on Energy and Commerce regarding
1496 the bill as it was being developed a lot more recommendations
1497 in regard to cutting waste, fraud, and abuse that would
1498 amount to much more than \$6 billion a year in savings, and
1499 why weren't they included in the bill?

1500 Mr. {Levinson.} Mr. Gingrey, it is certainly true that
1501 our office has provided technical assistance to both the
1502 House and the Senate over the course of the last year or year
1503 and a half as the legislation went through, and that is a
1504 very important part of our job. We report to the Secretary

1505 but we also report to the Congress, and we endeavor to try to
1506 provide the best technical assistance. That assistance was
1507 directed towards the health care fraud provisions, Title 6
1508 mostly, although perhaps not entirely. I think there might
1509 be elements in other titles, but primarily Title 6, title
1510 assistance, and it was a matter of responding to member
1511 requests on how to handle, how to phrase, how to craft
1512 particular initiatives. And if there are added questions
1513 from Congress and certainly we will be looking at how the law
1514 unfolds over the course of the next couple of years much as
1515 we did with MMA when it was passed in 2003. Our office has
1516 done significant work on Part D to try to understand where
1517 the possible problems are there. We certainly will be doing
1518 the same with the Affordable Care Act.

1519 Dr. {Gingrey.} Mr. Chairman, I yield back. I realize I
1520 have gone beyond my time and I thank you for your patience,
1521 and I request that Mr. Levinson would submit his annual
1522 recommendations in combating waste, fraud, and abuse to the
1523 committee. I would appreciate that for the record.

1524 Mr. {Pallone.} Is that something that is already out?
1525 Okay. Thank you. We ask you to do so. Chairman Waxman.

1526 The {Chairman.} Thank you, Mr. Chairman. The
1527 Affordable Care Act included a series of program integrity
1528 provisions that CBO estimates will save federal taxpayers \$6

1529 billion over the next 10 years. The Act provides CMS and the
1530 Inspector General with dozens of new tools to prevent fraud
1531 and keep fraudulent providers out of Medicare and Medicaid.
1532 It has new civil and criminal penalties. It has new data-
1533 sharing requirements and it provides \$500 million in new
1534 funding to fight fraud. Dr. Budetti, some have called for
1535 repealing the Affordable Care Act. What effect would repeal
1536 have on your agency's ability to detect, stop, and prosecute
1537 fraud against Medicare and Medicaid?

1538 Dr. {Budetti.} Mr. Chairman, the Affordable Care Act
1539 has so many strong provisions in it that are the central part
1540 of our initiative to move forward to keep people out of the
1541 program who don't belong in the program and to avoid paying
1542 claims that are fraudulent. It also provides the support for
1543 us to do that--

1544 The {Chairman.} Keep people out of the program, are you
1545 talking about beneficiaries or providers?

1546 Dr. {Budetti.} To keep fraudsters out of the program,
1547 to keep scam artists, to keep people who would enter the
1548 program simply to be able to submit bills and not provide
1549 legitimate services, to keep those people, the bad guys, out
1550 of the program. And the Affordable Care Act provides us new
1551 and expanded authorities that are absolutely central to our
1552 ability to do that going forward. It also provides the

1553 increased financial support that is important to us. It
1554 provides a new level of flexibility in how we go about this
1555 so that we can be nimble and adapt to the changing problems
1556 that we see all the time. These are very important
1557 provisions in terms of the ability to protect Medicare and
1558 Medicaid resources, Mr. Chairman.

1559 The {Chairman.} Well, some have called for repealing
1560 the Act but others have called for defunding the agencies
1561 that implement the Affordable Care Act. What effect would
1562 defunding have on CMS' ability to fight fraud?

1563 Dr. {Budetti.} The activities that we are doing to
1564 implement the Affordable Care Act, the new provisions, are on
1565 top of a very, very large array of activities that have been
1566 going on for some time. All of those are demanding on staff
1567 and on our resources. Any serious limitations on our ability
1568 to carry out these programs would mean that the likelihood of
1569 getting a return on investment would go down. The less we
1570 invest in fighting fraud the less of return on that
1571 investment that we would see over time.

1572 The {Chairman.} Mr. Levinson, what is your view, would
1573 eliminating and defunding the new anti-fraud provisions in
1574 the health care reform bill impact the work of the Inspector
1575 General to reduce fraud?

1576 Mr. {Levinson.} Mr. Chairman, that is beyond my

1577 portfolio to opine on. We take the law as passed by Congress
1578 and we try to make the laws most effective and--

1579 The {Chairman.} If you didn't have this law, do you
1580 think that your anti-fraud efforts or the Department's anti-
1581 fraud efforts would be weakened?

1582 Mr. {Levinson.} Well, we think that many of the
1583 provisions, especially in Title 6 that strengthen the
1584 enrollment standards, are very helpful in being able to
1585 create much greater controls over the program so that
1586 fraudsters are not able to gain entry. We think that
1587 mandated compliance programs, which also is included in the
1588 Act, will be very helpful in getting so many of the lawful
1589 providers the kind of assistance and the kind of incentives
1590 to structure their program so that they are not either
1591 advertently or inadvertently in violation of Medicare and
1592 Medicaid rules and guidance. So unquestionably there are
1593 many features of this Act that I included in my opening
1594 statement that are very beneficial to ensuring that the
1595 programs will run with far less exposure to fraud, waste, and
1596 abuse.

1597 The {Chairman.} Mr. Chairman, there are plenty of good
1598 reasons why repealing the Affordable Care Act is a terrible
1599 idea including the fact that repeal would increase Medicare
1600 and Medicaid fraud. I just want to make that statement very

1601 clear because when we hear people on the other side of the
1602 aisle complain they don't like the Act, they want to repeal
1603 it, they want to stop the agency from getting funded, what
1604 they are in effect saying as it relates to today's hearing is
1605 that they are going to increase Medicare and Medicaid fraud
1606 when the policeman on the beat, which is the department, and
1607 others in this area are not given the tools to fight fraud
1608 and abuse. I think it is clear that fraud and abuse would be
1609 increased rather than decreased. I yield back the balance of
1610 my time.

1611 Mr. {Pallone.} Thank you, Mr. Chairman. Next is the
1612 gentleman from Texas, Mr. Burgess.

1613 Dr. {Burgess.} Thank you, Mr. Chairman. Just to
1614 reference the chairman of the full committee's remarks, I
1615 would submit that the bill itself is a fraud that has been
1616 perpetrated on the American people but it is what it is, and
1617 we got to make the best of it. So the Patient Protection and
1618 Affordable Care Act predicts a drastic cost savings from
1619 fraud prevention to cover the \$500 billion in cuts to
1620 Medicare, as well as allocating 10 million annually for the
1621 fiscal years 2011 through 2020. The Reconciliation Act that
1622 was passed right after the bill provides an additional \$250
1623 million for the period 2011 through 2016 for health care
1624 fraud and abuse program. In order to combat fraud and use

1625 the money in the most effective manner, do you think--I will
1626 actually direct this question to either or both of you, in
1627 order to combat fraud and use the money in the most effective
1628 manner, do you believe it would be beneficial to hire more
1629 federal prosecutors as I referenced in my opening statement
1630 with a background in health care fraud to combat this problem
1631 as opposed to hiring prosecutors with no previous health care
1632 experience?

1633 Mr. {Levinson.} Mr. Burgess, we have had over the
1634 course of years a very, very good and productive relationship
1635 with the Department of Justice, the civil division, the
1636 criminal division, United States Attorneys in all 94
1637 districts. Unquestionably, I think there is more focus on
1638 health care fraud in some parts of the country and in some
1639 districts than in others. We certainly want to encourage as
1640 much expertise to be imbedded in the Department of Justice as
1641 possible. We know that they rely upon the expertise of our
1642 investigators, our agents, for a lot of the work that we do
1643 as well as the FBI.

1644 Dr. {Burgess.} I don't mean to interrupt, but we had
1645 this discussion, of course, last week as well. In my area in
1646 Texas, in the north Texas area, I asked people from HHS,
1647 Office of Inspector General, as well as Department of Justice
1648 to come and talk to me about some of the problems we were

1649 having with foreign nationals who were setting up sham
1650 operations and literally just ripping the government off.
1651 The figure I reported was over a million dollars from one
1652 individual who is now in jail thankfully. But I was told by
1653 both your folks in the Office of Inspector General and as
1654 well as the Department of Justice that they lack
1655 prosecutorial manpower to go after. In fact, there were
1656 certain levels where they wouldn't even bother to bring a
1657 case. I forget what the level was, but I was startled by the
1658 size of the number. And I recognize that terrorism is
1659 important and I recognize that there are lots of other places
1660 we need to spend our money but this is important as well.

1661 Mr. {Levinson.} Absolutely, and I am not trying to
1662 dodge the question. The question really is best posed in the
1663 first instance to the Justice Department because they are the
1664 ones who need to take responsibility for their resources. I
1665 can say though clearly that it is a testament to how hand in
1666 glove we work with out partners at DOJ that you can meet with
1667 folks from both of these departments and get whatever picture
1668 they are giving you about your neighborhood and what is going
1669 on and what needs to be done. And it is absolutely true that
1670 no matter how many investigators you have if you don't have
1671 the prosecutorial backup then you have cases that are simply
1672 lingering and really not doing enough for the system.

1673 Dr. {Burgess.} I understand. And you referenced in
1674 your opening statement about you have to lock the front door.
1675 You know, we go after a lot of this stuff for post-payment
1676 review and the figure I have here that fewer of 700 of the
1677 8.7 million claims were reviewed. That is a pretty small
1678 number. Is there any way to prospectively--we never hear of
1679 Aetna, United Health Care, Blue Cross/Blue Shield having
1680 these types of problems. Sure, there is probably improper
1681 utilization with those payers as well but it is never to the
1682 order of magnitude that it is with the public programs. Is
1683 there a way to do it prospectively?

1684 Mr. {Levinson.} Mr. Burgess, I think that the National
1685 Health Care Anti-Fraud Association, those who actually deal
1686 with anti-fraud efforts in the private sector, might be able
1687 to provide some useful detail on what is going on on the
1688 other side of the ledger, and health care indeed is a hybrid
1689 system in the country where you have both robust, private and
1690 public sector involvement. We deal at the IG's office with
1691 the system that we have, and we certainly try to encourage
1692 our partners in the department to try to clarify and make
1693 more transparent what is going on so that we can do our job
1694 better and indeed they can do their job better.

1695 Dr. {Burgess.} That figure of 10 percent, if you think
1696 of any company, any private company, publicly held company in

1697 this country that had a 10 percent loss rate due to theft
1698 would certainly try to get its arms around that. Two things
1699 that do concern me, the anti-kickback statute and the health
1700 provisions of the criminal mail fraud statute. I am
1701 concerned that we may turn innocent coding errors into
1702 federal cases. What are you doing to kind of protect what
1703 may be simply an innocent mistake from someone who then
1704 receives the full force of the federal prosecutorial force?

1705 Mr. {Levinson.} Yes. That is a very important
1706 question, and indeed I think just looking at the improper
1707 payment problem is kind of a good macro example of what we
1708 are talking about because the programs do suffer from a lot
1709 of improper payments. In many cases, that has to do with
1710 documentation that for one reason or another is not fully
1711 exposed on the record. It simply is a failure of
1712 documentation. That might be hiding fraud. But in many
1713 cases, probably in most cases, it isn't. There is something
1714 else going on. There is still a failure to document but
1715 improper payment does not equate with fraud and proper
1716 payment doesn't equate with lack of fraud.

1717 It is very possible to get the payment system looking
1718 right and indeed what it is doing is it is masquerading some
1719 fraudulent scheme. So when it comes to health care and some
1720 of the sophisticated kinds of scams that are occurring it

1721 really requires an information technology system and the
1722 cooperation of a lot of different parties to be able to tease
1723 out the kinds of very serious issues that you are raising and
1724 that need to be done as a result certainly of the added
1725 dollars that are being provided now for health IT. Those
1726 dollars need to be focused in significant part, in my
1727 opinion, on making sure that we don't fall into those kinds
1728 of problems where you do have genuine providers who are then
1729 being questioned on a very fair record because we have gotten
1730 the IT piece wrong.

1731 Mr. {Pallone.} We are over time here. Thank you. Next
1732 is the gentle woman from Florida, Ms. Castor.

1733 Ms. {Castor.} Thank you, Chairman Pallone, very much.
1734 Dr. Budetti, on October 1 the private health insurance
1735 companies will begin to market to seniors all across the
1736 country for private Medicare plans. I have been concerned
1737 for many years about some of the marketing practices and have
1738 direct experience with this with some insurance company
1739 sending agents to assisted living facilities or nursing homes
1740 to try to sign up seniors. Often times if they were on
1741 traditional Medicare they would lose access to their trusted
1742 doctor. I have seen them camped out in front of senior
1743 apartment complexes to try to get them to sign up and use
1744 high pressure sales tactics. The problem is a few years ago

1745 the Medicare Modernization Act took away the authority of our
1746 state insurance commissioners to go after these fraudulent
1747 practices so now the burden is wholly on HHS and the federal
1748 government.

1749 In the House version of the health reform bill, I had an
1750 amendment, it was a bill I had, to restore the authority of
1751 our state insurance commissioners and consumer advocates to
1752 go after those practices. And that didn't make it in the
1753 final package unfortunately, but these abusive tactics
1754 remain, and I am very concerned because they prey on seniors
1755 that often lack the wherewithal to withstand the high
1756 pressure tactics or may suffer from dementia or Alzheimer's.
1757 And what can you do, what tools do you have where you can
1758 work with the states to make sure that you are taking action
1759 against those type of marketers and what--I really want to
1760 understand what you can do, what authorities you have, what
1761 else do you need? Obviously, we have got to return some
1762 authority to the state insurance commissioners. Consumer
1763 advocates are strongly behind this proposal, but in the mean
1764 time until we do that, what can you do to work with states to
1765 make sure we are going after those folks?

1766 Dr. {Budetti.} Thank you for that observation and
1767 question. One of our priorities at the Center for Program
1768 Integrity has been to expand our work with beneficiaries to

1769 help them become really partners in spotting and preventing
1770 scams from occurring in the first place. We are working
1771 closely with the Administration on Aging to expand the Senior
1772 Medicare Patrol, which trains seniors to review their
1773 Medicare statements. We have been rewriting those Medicare
1774 summary notices so that they are more user friendly. We have
1775 been encouraging people to use My Medicare system so that
1776 they can review their claims on an immediately up-to-date
1777 basis, and we have had a lot of outreach and consumer
1778 education that we have been doing.

1779 I think you are aware that we have been holding regional
1780 fraud prevention summits around the country. We held one in
1781 south Florida, the first one in south Florida. In fact, at
1782 that summit a major piece of it was to work with
1783 beneficiaries and interact with beneficiaries on how they
1784 could help in preventing and fighting fraud. So one major
1785 aspect of what we are doing is to get the beneficiary
1786 community more aware and give them more tools to work on
1787 this. In south Florida, in fact, we have established a
1788 separate hotline specifically for that purpose because of the
1789 problems that we see, but also because we are promoting the
1790 awareness down there. So beneficiary outreach and
1791 involvement in education is a very big piece of what we are
1792 doing.

1793 We also, of course, have our oversight of the Medicare,
1794 Part C Medicare Advantage plans. And we do have our
1795 responsibilities to oversee them and to look closely at
1796 whether they are complying with the requirements that are
1797 imposed on them and also with respect to the way that their
1798 funding is working.

1799 Ms. {Castor.} Mr. Levinson, do you have a comment and
1800 what happens if someone gets caught, if the company gets
1801 caught with these high pressure tactics or coming into a
1802 nursing home when they are not allowed? What is the penalty?

1803 Mr. {Levinson.} Well, I wouldn't want to speculate, I
1804 will put it that way, Ms. Castor, on exactly what would
1805 happen given that we have 400 investigators who really follow
1806 up very conscientiously on health care fraud allegations of a
1807 wide variety and depending upon the particular facts of what
1808 happened there could be very serious penalties.

1809 Ms. {Castor.} I just think that this should be a shared
1810 responsibility, that our states have additional tools that
1811 can help protect seniors from these high pressure tactics
1812 that often result in seniors not being able to see those
1813 other doctor. And under the Medicare Advantage plan often
1814 times you are signed up, you can't get back out. It is a
1815 pain to try--if there has been some fraud committed to
1816 actually switch back out of a private plan back to the

1817 coverage you had.

1818 Mr. {Pallone.} I have to ask the gentle woman--we are a
1819 minute over.

1820 Ms. {Castor.} Okay. Thank you.

1821 Mr. {Pallone.} Thank you. The gentlewoman from the
1822 Virgin Islands, Ms. Christensen.

1823 Dr. {Christensen.} Thank you, Mr. Chairman, and, thank
1824 you, Dr. Budetti and Mr. Levinson. Dr. Budetti, CMS is
1825 requiring providers to enroll in the provider enrollment
1826 chain and ownership system, and the deadlines has effectively
1827 passed although you haven't started rejecting the claims. In
1828 your testimony you said that over 800,000 providers have
1829 enrolled. Do you have any idea how many of those are
1830 minorities or how well those practicing in poor or rural
1831 areas are represented? Many minority doctors, for example,
1832 practice in poor communities, and Medicare and Medicaid make
1833 up a large part of the patient's payment form. So what
1834 special outreach, if any, has been done or is being planned
1835 and do you plan to track enrollees by racial, ethnic,
1836 geographical or any other data? The Affordable Care Act has
1837 placed a lot of emphasis on diversifying our work force
1838 reaching out to under represented minorities and making sure
1839 that the programs reach rural areas.

1840 Dr. {Budetti.} Dr. Christensen, I am not aware that we

1841 have any data on the backgrounds, demographic backgrounds, of
1842 the enrollees to that extent. I do know that we are making
1843 major efforts to conduct outreach to all the providers who
1844 are required to enroll and to improve our systems to be able
1845 to handle the enrollments more efficiently, and I will be
1846 delighted to look into that issue and see whether there is an
1847 opportunity for us to do exactly what you suggest.

1848 Dr. {Christensen.} My office will be working with MMA
1849 and some of the other organizations to try to make sure that
1850 they understand some of the provisions and are able to take
1851 advantage of the benefits. Mr. Levinson, as a physician who
1852 interacts with pharmaceutical reps during my practice,
1853 although it was a while ago, I am interested to know what
1854 would be considered a transfer of value, transfer of value,
1855 sample meds which we use to help poor people get their
1856 medications, pens, trinkets, CMEs with a meal, none of those
1857 really influenced me and I am sure don't influence the
1858 majority of providers who are really just trying to do what
1859 is best for their patients and help them to get a better
1860 health outcome. So what do you think would be considered a
1861 transfer of value which is required to be reported under
1862 Section 6002?

1863 Mr. {Levinson.} I would respectfully ask that my
1864 counsel provide you a legal definition, and I say that in

1865 part because some of the examples that you were alluding to
1866 based on your own practice and experience don't strike me as
1867 the kinds of things that are actually being targeted by that
1868 law, so I think it would be helpful to get not my off the
1869 cuff, off the top of my head definition of that but for you
1870 to our counsel's explanation of what exactly that includes.

1871 Dr. {Christensen.} Thank you. And I guess, Mr.
1872 Budetti, you talked a little about the outreach to
1873 beneficiaries, and I remember beneficiaries getting their
1874 notices of information from Medicare and coming in and my
1875 having to sit down and interpret them for them. Again, you
1876 have a lot of people who don't have a lot of education
1877 working in low level jobs who are now Medicare beneficiaries
1878 and are going to have a lot of difficulty not only
1879 understanding the information that is sent out but even going
1880 through their bills. And they have such an important role to
1881 play along with both of your offices and the Department of
1882 Justice so how do you plan to help these beneficiaries
1883 understand what their role is and how do you plan to reach
1884 them?

1885 Dr. {Budetti.} Dr. Christensen, when I first started
1886 thinking about how we were going to go about this, I asked my
1887 colleagues if any of them had tried to read their explanation
1888 of benefits recently.

1889 Dr. {Christensen.} It hasn't changed.

1890 Dr. {Budetti.} And I was reassured that that was a
1891 challenging task to put it mildly. So one of the first
1892 things that we did was to start working with Medicare
1893 beneficiaries to have focus groups and specifically work with
1894 them on how to make the Medicare summary notices more user
1895 friendly and more readable, and we also want to highlight in
1896 the summary notices what we are looking for, what we want
1897 them to look for by way of potential problems. So we are
1898 working on it on that end to try to get the documents that we
1899 are sending to them to be more usable, but we are also
1900 working, as I mentioned, with the programs that are in place,
1901 the Senior Medicare Patrol, who educate beneficiaries, and it
1902 is a train the trainer approach where they will go out. So
1903 we are addressing this, I think, on 2 fronts and I am
1904 optimistic that this will pay off.

1905 Dr. {Christensen.} Thank you. Thank you for your
1906 answers. Thank you, Mr. Chairman.

1907 Mr. {Pallone.} The gentleman from Maryland, Mr.
1908 Sarbanes.

1909 Mr. {Sarbanes.} Thank you, Mr. Chairman. There is a
1910 good piece of legislation on the floor today, H.R. 6130, the
1911 Strengthening Medicare Anti-Fraud Measures Act of 2010, which
1912 will give you all some additional tools in terms of combating

1913 fraud. In particular, this would provide more clarity on the
1914 rules for excluding individuals and companies from the
1915 program based on findings of fraud and associations they have
1916 with companies that have been fraudulent, and I just wanted
1917 to make sure for the record I assume you all are very
1918 supportive of this additional set of tools.

1919 Mr. {Levinson.} Mr. Sarbanes, we don't explicitly
1920 endorse bills but I do want to note that 6130 closes a
1921 statutory loophole that allows corporate officials to escape
1922 liability simply by resigning their job. And current law is
1923 written in the present tense so an executive of a corporation
1924 that engaged in criminal fraud can evade exclusion simply by
1925 resigning before the corporation is convicted. And 6130
1926 would hold responsible those individuals that are ultimately
1927 in charge of the corporations that defraud the health care
1928 programs and taxpayers. The legislation would also help in
1929 the shell game in which large corporations resolve criminal
1930 liability by pleading guilty through a shell subsidiary.
1931 Under current law if a single entity within a chain of
1932 entities is sanctioned our office can exclude the sanctioned
1933 entity's subsidiaries but cannot exclude its parent or sister
1934 corporations regardless of whether they are related entities
1935 or operator-owned by the same people. So by reaching
1936 affiliated entities the legislation will provide new

1937 incentives to corporations to promote compliance and police
1938 the activities within their corporate families.

1939 Mr. {Sarbanes.} Great. Thank you for those comments.
1940 Let me ask you this question. There was a discussion about
1941 administrative overhead and I assume that when it comes to
1942 combating fraud both prevention measures would be part of
1943 administrative overhead as well as the pay and chase or
1944 really, I guess, the chase element of it, right, is going to
1945 be counted as administrative overhead, would it not?

1946 Dr. {Budetti.} I think that is an important
1947 consideration, Mr. Sarbanes. We have to take a look at the
1948 entire spectrum of what it will take on the one hand to
1949 implement these provisions and on the other hand where the
1950 savings will be in terms of things that we might not have to
1951 do down the road.

1952 Mr. {Sarbanes.} So it is conceivable that the
1953 administrative costs, the net administrative costs, could go
1954 down if you are more effective in the prevention side of
1955 things and have to spend less money chasing folks after they
1956 have been paid. That is, I guess, the point I was making.
1957 The other thing was Congressman Shimkus raised an interesting
1958 point which is, you know, comparing the overhead and
1959 administrative costs on the private side with the public side
1960 in Medicare, and, you know, noted that there is sort of the

1961 evilness of the insurance companies in terms of their
1962 administrative costs as often pointed to by the critics as
1963 the way the insurance companies operate. My own sense, and I
1964 am not asking you to necessarily respond to this, but my own
1965 sense is that the evilness is not so much that they have got
1966 good warranted prevention efforts on the front end that may
1967 add something to their administrative costs, it is that with
1968 respect to providers that have already been vetted and are
1969 providing legitimate services and are legitimate providers
1970 that there is a whole part of the operation that is dedicated
1971 to denying payment and wearing those folks down, and that
1972 actually consumes a tremendous amount of administrative costs
1973 that don't have to be part of the equation.

1974 I am going to run out of time in about a minute, so let
1975 me ask you something else. What amount of the fraud, would
1976 you say, is attributable, saying you can quantify it at all,
1977 to providers that are just completely non-existent? In other
1978 words, it is just a paper provider, right, who managed to get
1979 hold of a provider number and has figured out a way to
1980 completely create out a whole cloth of documentation and
1981 other things that get submitted to be paid versus--and in
1982 that case you are talking about harming the system and
1983 harming beneficiaries in an indirect way and the huge amount
1984 of dollars that could be going for legitimate services are

1985 going to non-existent providers, so there is that category of
1986 fraud and abuse. Versus situations where the provider exists
1987 but they really set up shop to push through services that are
1988 unnecessary in which case you are talking about a direct
1989 effect on the patient as a result of that fraudulent activity
1990 because they are being put through tests and other things
1991 that they don't need. Do you have sense of kind of the
1992 percentage in each of those areas?

1993 Mr. {Levinson.} Quite honestly, Mr. Sarbanes, I cannot
1994 give you percentage. Health care fraud is perpetrated on the
1995 street, in corporate 500 offices, by doctors, by pharmacies,
1996 by beneficiaries, but of course the great majority of all of
1997 those categories are not engaging in health care fraud, but
1998 we see it pop up in such a wide variety of context it is
1999 rather difficult to be able to sort out given that--

2000 Mr. {Sarbanes.} Well, I am out of time.

2001 Mr. {Levinson.} But I would like to finish by noting
2002 that when, and I made allusion to this earlier, during the
2003 year after our strike force work in south Florida DME billing
2004 went down by 63 percent, and it is so crucial to get control
2005 of enrollment because enrollment fraud is the kind of problem
2006 where people masquerading as health care providers are
2007 getting into the program. Take care of the enrollment issue
2008 and unquestionably you have resolved a certainly important

2009 percentage. I can't give you the number but a significant
2010 problem has been eliminated.

2011 Mr. {Sarbanes.} Thank you.

2012 Mr. {Pallone.} Thank you. Let me thank both of you. I
2013 mean, obviously, this has been very helpful to us.

2014 Mr. {Shimkus.} Mr. Chairman.

2015 Mr. {Pallone.} Yield to the gentleman.

2016 Mr. {Shimkus.} This has been vetted to the majority,
2017 another letter in support of Peter Roskam's bill. If we
2018 could submit that for the record, I would appreciate it.

2019 Mr. {Pallone.} Without objection, so order.

2020 [The information follows:]

2021 ***** COMMITTEE INSERT *****

|
2022 Mr. {Pallone.} I just wanted to thank you because I
2023 think this has been very helpful, not only in terms of what
2024 you are doing under the health care reform bill but other
2025 ideas that might be useful. We had the two members of
2026 Congress testify before and they have some legislation. I
2027 guess Ron Klein's or part of it is actually on the Floor
2028 today. That is what Mr. Sarbanes was talking about, so this
2029 is helpful to us as we move forward. Thank you very much.
2030 As you notice, some members had asked some questions and you
2031 may get additional ones within the next 10 days, and we would
2032 ask you to try to get back to us with a response as soon as
2033 possible.

2034 But without any other objection, this hearing of the
2035 subcommittee is adjourned.

2036 [Whereupon, at 12:10 p.m., the Subcommittee was
2037 adjourned.]