

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

**Opening Statement of Rep. Henry A. Waxman**  
**Ranking Member, Committee on Energy and Commerce**  
**“Protecting Medicare with Improvements to the Secondary Payer Regime”**  
**Subcommittee on Oversight and Investigations**  
**June 22, 2011**

Mr. Chairman, the Medicare Secondary Payer Program is complex and arcane. Few people have heard of this program, and even fewer understand it, but that does not mean it is insignificant. The program saves taxpayers billions of dollars, helping to make sure that Medicare is not forced to foot the bill in cases where other insurers should be paying.

This is a worthy goal, and we all have an interest in making this program work. We have two panels today, and I hope that they will help us answer one simple question: is the Medicare Secondary Payer Program working for taxpayers and Medicare beneficiaries?

The problem with answering this simple question is that there can be a tension between what works for the taxpayer and what works for beneficiaries. From the beneficiary perspective, the key goals are speed, simplicity, and certainty. Beneficiaries want Medicare to reduce burdens and rapidly give beneficiaries – especially those caught up in legal cases with insurers because of accidents – the information they need about how much they or their insurer will have to reimburse Medicare.

Taxpayers have different goals. Taxpayers want the program to leave no money on the table – even if that means waiting to be 100% certain that all funds owed to taxpayers are repaid.

I don't envy the job CMS has in finding the right balance here. Today, we'll hear from CMS about how they have chosen to run the program and the opportunities they see for improvement. We'll also hear from GAO about key program areas that need investigation.

On the second panel, we'll have witnesses representing beneficiaries, trial lawyers, and businesses affected by the Medicare secondary payer rules. They feel that CMS has not obtained the correct balance in the way they have chosen to run the program.

This will be a valuable hearing because it can help us determine whether we should enact legislative solutions. Our goal should be to work with CMS and other interested parties to be sure we are appropriately weighing the concerns of beneficiaries and the concerns of taxpayers

As we focus today on making Medicare better, however, we also need to recognize how important Medicare is to seniors and our nation. And we should renounce the Republican effort to end Medicare as we know it

Many of my Republican colleagues have bashed Medicare and supported turning the program over to private insurance companies on the basis that no government program can do an effective job compared to the private sector. When Republicans make this argument, one of their talking points is that Medicare has extremely high erroneous payment rates. Their implication is clear: that Medicare's error rate is higher than error rates of private insurers.

This is simply false. Earlier this week, the AMA released their annual report card on insurers. The AMA found that Medicare had the highest payment accuracy rate among all providers – 96%. Private insurers' payment inaccuracy rates were five times higher than Medicare. This is a great example of Medicare leading the way and doing better than the private sector when it comes to cutting waste.

Mr. Chairman, you and almost every member of the Republican caucus voted for the Republican budget that would replace Medicare for persons under 55 with a privatized and underfunded voucher system that would cost thousands of dollars more in out-of-pocket health care costs every year. Seniors would face the worst of both worlds: the loss of important guaranteed benefits and higher out-of-pocket costs because of the inefficiency of the privatized Medicare model.

These dramatic changes to Medicare pose a much greater risk to seniors than the problems in the Medicare Secondary Payer Program. That is why I sent a letter to Chairman Upton last month asking for hearings on the Republican budget's impact on Medicare and Medicaid.

Now that we have started Medicare work in this Subcommittee, I hope our next oversight hearing can look at the impacts of the Republican budget on this key program for seniors and the disabled.