

For Immediate Release

Friday, April 17, 2009

Grassley works to recoup Medicare dollars lost to overpayment, prevent additional losses

WASHINGTON – Senator Chuck Grassley said today that the Centers for Medicare and Medicaid Services needs to respond to findings by the Inspector General that durable medical equipment suppliers and others businesses receiving Medicare payments owe taxpayers debts of \$352 million from 2005 and \$402 million from 2006, for overpayments.

“Right now, there’s no mechanism in place to try to recover these losses,” Grassley said. “And, the Inspector General’s investigation indicates that the losses can be attributed to systemic problems rather than isolated incidents, so the issue needs attention and corrective action by Medicare officials.”

The text of Grassley’s letter to the Acting Administrator of the Centers for Medicare and Medicaid Services is below. Grassley is the Ranking Member of the Senate Committee on Finance, which is responsible for Medicare legislation and oversight.

April 17, 2009

Charlene Frizzera
Acting Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Acting Administrator Frizzera:

As the Ranking Member of the United States Senate Committee on Finance (Committee), it is my duty under the Constitution to conduct oversight of the Medicare and Medicaid Programs. This responsibility includes monitoring the Centers for Medicare and Medicaid Services (CMS or Agency) and to ensure that proper programmatic oversight is in place to protect the taxpayer and beneficiary dollars from waste, fraud, and abuse.

I am writing to you today concerning a very troubling memorandum recently completed by the U.S. Department of Health and Human Service, Office of the Inspector General (HHS/OIG). The memorandum, “Early Alert Memorandum: Payments to Medicare Suppliers and Home Health Agencies Associated with ‘Currently Not Collectible’ Overpayments,” OEI-06-07-0080 (the Memorandum), details the apparent ineffective oversight of suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) and other businesses receiving Medicare payments, which results in tremendous losses to the taxpayers. The Memorandum detailed staggering debts of \$352 million and \$402 million which DMEPOS suppliers and other related businesses owed to the Medicare program in 2005 and 2006 respectively.

The debts described in the Memorandum refer to overpayments that participating Medicare providers or suppliers received in excess of amounts due and payable. An overpayment is considered “Currently Not Collectible” (CNC) if no payment is collected within 210 days and uncollected debts are referred to the Department of Treasury. My staff has been advised that CMS has no mechanism in place to recover these losses which represents significant costs to the American taxpayer.

In addition to the unrecoverable losses to the taxpayer, the analysis completed by HHS-OIG detailed a possible systemic vulnerability in the application and oversight process which allows suppliers to avoid debt repayment or engage in fraudulent billing. In order to more fully examine the issue, HHS-OIG selected a random sample of 10 DMEPOS suppliers in Texas with Medicare debt of at least \$50,000 deemed CNC. The first step undertaken was to identify all owners and managers of the DMEPOS suppliers in question and then cross reference this information against other DMEPOS suppliers, Home Health Agency (HHA) enrollment applications and Medicare claims to determine if any of the sample DMEPOS suppliers had a relationship with other business that received Medicare payments during 2002 – 2007. The Memorandum documented that 6 out of the 10 DMEPOS suppliers in CNC debt were associated with 15 other DMEPOS or HHA’s that received Medicare payments totaling \$58 million. Most associated DMEPOS suppliers lost billing privileges by January 2005 and had \$6.2 million in CNC debt.

Of those 15 identified DMEPOS or HHA’s, 11 of the associated business’ enrollment applications did not include the name of at least one individual listed as owner or manager in violation of Medicare participation requirements. Per 42 CFR § 424.57 all suppliers must self-report “complete, accurate, and truthful responses to all information requested.” Applicants are required to disclose the identity of any person or business that has an ownership, financial or controlling interest in the business or has a management role.^[1] The Memorandum suggests that without better oversight, individuals with unpaid Medicare debt could submit new DMEPOS or HHA applications with intentionally omitted owner/manager information resulting in inappropriate Medicare payments.

Accordingly, please provide detailed answers to the following questions:

1. When a potential DMEPOS supplier or HHA applies to participate in the Medicare program, are they required to disclose any relationship with other companies currently in default to the Medicare program?
2. What policies are in place to recoup losses after a default, and if so please provide copies?
3. What enhanced authorities does CMS require to protect the program?

Thank you for your attention to this important matter. Please respond to the questions set forth in this letter no later than May 1, 2009.

^[1] 42 CFR § 424.510(d) (2) (i). See also 42 CFR § 424.57(c) (2).

Sincerely,
Charles E. Grassley
Ranking Member
