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Wyden Statement at Finance Hearing on the Medicare Appeals Process
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WASHINGTON - *Senate Finance Committee Ranking Member Ron Wyden, D-Ore., today made the following statement at a Senate Finance Committee hearing examining the Medicare's appeals process:*

Since the days when I was director of the Oregon Gray Panthers, seniors and their providers have been frustrated by what they considered to be the arbitrary nature of the appeals process. Back then, everybody was in the dark. Nobody knew what the rules were. There were no deadlines.

Since the days when I was director of the Oregon Gray Panthers, seniors and their providers have told me how frustrating it is to work with the arbitrary nature of the appeals process. Back then, everybody was in the dark. Nobody knew what the rules were. There were no deadlines.

Some of those problems have been addressed. But today, the system is still broken and there are new problems to confront. Today, the backlog of cases is so enormous that the door to new appeals is closed; new cases are no longer being heard. Nobody is immune. Certainly not Oregon, where the problem of clogged appeals is sadly real and is something I hear about from frustrated seniors and providers alike.

The Committee will hear a lot of statistics and big numbers today that illustrate the point. An important one is this: the number of cases sent to the Office of Medicare Hearings and Appeals has soared from 60,000 in fiscal year 2011 to 654,000 claims in fiscal year 2013. That's an astonishing 10-fold jump in only two years.

One number that hasn't changed, however, is the number of hearing officers handling cases. Today, approximately 60 hearing officers are available to consider these cases, just as it was back in 2011. It's no wonder that the appeals system is buckling under its own weight and that the average time to process a claim is now 560 days.

Those are important reference points. But the most important fact is, that amid the blizzard of numbers and statistics, each case is the story of an actual person. Every case. Every time.

Let's not forget stories like the late Stephen Lessler. Like many seniors, he had hip surgery and in 2013 he went to a nursing home for rehabilitation. About one month into his rehabilitation, Mr. Lessler was notified that his coverage under Medicare Advantage would soon stop. Encouraged by the progress he was making, he ultimately decided to pay out-of-pocket for another week. He also appealed the denial to Medicare.

The process was lengthy and arduous. After losing earlier appeals, Mr. Lessler requested a hearing before an administrative law judge in December of 2013. Not until August of 2014 – 277 days later – did he actually receive his hearing. Eventually Mr. Lessler did receive a favorable ruling – on Sept. 24, 2014. Unfortunately, he passed away the day before, Sept. 23, 2014. He was 92 years old.

We have a duty to ensure that seniors receive the care they are rightfully entitled to receive under Medicare. We also have an equal duty as custodians of taxpayer dollars to ensure those dollars are spent in the best possible manner. To balance both these goals we need some fresh thinking.

One idea is to allow less complicated and contested cases to be handled by a different set of hearing officers so that they can be processed more quickly. That will leave the more complicated and difficult cases to administrative law judges. Another idea is to establish a refundable filing fee to prevent providers who are gaming the system from crowding out people whose cases need to be heard.

I want today's witnesses to offer ideas for reforming Medicare's appeal process. I want to hear from the witnesses their thoughts on solving this problem. We need to squeeze every drop of efficiency out of our current system, but with a 10-fold increase in the number of cases, it's clear that additional resources are needed too. We need to reduce the time it takes for an appeal to make its way through the system. And finally, we need to prevent appeals from even happening by getting it right the first time.

Mr. Chairman, all of these issues need to be addressed. I thank you for calling this hearing today and I look forward to the testimony and positive changes it will bring for all those who rely on Medicare.

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