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CONTACT: [Aaron Fobes](#) , [Julia Lawless](#)

(202) 224-4515

Hatch Statement at Finance Hearing on Proposed Medicare Part B Demo

WASHINGTON – Senate Finance Committee Chairman Orrin Hatch (R-Utah) today delivered the following opening statement at a hearing to examine the Centers for Medicare & Medicaid Services' (CMS) proposed drug rule for Medicare Part B:

I'd like to welcome everyone to this morning's hearing that will allow the committee to examine the Obama Administration's proposed Medicare Part B drug demonstration. I would like to thank Dr. Patrick Conway from the Center for Medicare and Medicaid Services for testifying.

Today's topic is very important. The proposed CMS demonstration project would radically alter the ways in which Medicare pays for drugs and biologics treatments that physicians prescribe and administer to patients in the outpatient settings that are covered under Part B.

Typically, these are drugs and treatments that are used in a physician's office or hospital. They are used to treat vulnerable beneficiaries with serious medical conditions, such as cancer, macular degeneration, rheumatoid arthritis, neurological disorders, primary immunodeficiency diseases, and a number of rare illnesses.

From the day CMS made their proposed demonstration public this past March, I have made my opinion very clear: I believe this experiment is ill-conceived and likely to harm beneficiaries. It is an overreach on the part of CMS that, in my opinion, goes beyond the agency's statutory authority, extends nationwide, and requires all Medicare Part B providers to participate.

As we all know, the experiment would change the Part B payment system in two phases, both of which are very troubling – and that's putting it kindly.

Given these inherent concerns, I'd like to hear an explanation from CMS as to why they believe their new payment changes will not harm Medicare beneficiaries. So far, what they've

given us lacks any such explanation or justification. And, that's not all that's missing from the elements of the demonstration that have been made public.

Indeed, this proposal is troubling—and, again, I'm being kind with that description—not only for what is in it, but what has been left out.

For example, with its proposal, CMS has not indicated the conditions in which a physician has the option to prescribe a high or low cost drug that have the same patient benefit.

In addition, CMS has not provided an analysis of how many physicians, including those in small and rural practices, would lose money purchasing needed drugs.

They have not provided an analysis of how often physicians would have to refer beneficiaries to the less-convenient, more costly hospital outpatient setting.

And, CMS has not yet indicated how it will assess the impact on beneficiary access and quality both during the course of the demonstration and the formal evaluation of it.

Not surprisingly, the proposed experiment has been widely condemned by experts and stakeholders.

Almost immediately after the proposed demonstration was released, we received a letter from over 300 stakeholder organizations asking for our help in getting CMS to withdraw the proposal. These organizations included: the Arthritis Foundation, the Caregiver Action Network, the Immune Deficiency Foundation, the Lung Cancer Alliance, and the National Alliance for Mental Illness.

The organizations that have reached out with concerns about how this proposal represents patients who suffer from the diseases treated by these drugs, including cancer, arthritis, mental illness, and HIV. They represent the physicians who treat the patients with these devastating conditions, including oncologists, rheumatologists, and ophthalmologists.

I have also heard many of these same concerns from my constituents. Many Utahns feel that the proposed demonstration would deprive them from the drugs that best treat their conditions and require them to have to travel great distances and incur significant additional expenses to receive needed care.

Obviously, Utah is not alone here. Patients and providers from virtually every state have weighed in on this matter, which prompted all of the Republican members of the Finance Committee to send a letter to Acting CMS Administrator Slavitt urging the withdrawal of the proposal.

That's right, fourteen Senators from the only Senate committee with oversight jurisdiction sent a detailed and thoughtful letter to CMS about this proposal.

And, how did the agency respond? We received what essentially amounts to a form letter, thanking the committee members for sharing their views and noting that CMS will consider all public comments. It could not have been more dismissive in its tone.

That is the level of attention and seriousness CMS ascribes oversight from Congress. And, sadly, this is not an isolated incident. For seven years now, the entire Obama Administration has patronized, stonewalled, or flat-out ignored oversight efforts on the part of Finance Committee Republicans. There are countless examples.

Sometimes the agencies show disregard for the law—like when they refused to provide any meaningful response to numerous inquiries about illegal reinsurance payments issued under the so-called Affordable Care Act.

Other times, they discount our oversight role entirely—like when they denied Finance Committee staff access to last week’s Medicare and Social Security Trustees Reports until the press conference putting the administration’s own misleading spin on the reports was well underway.

I have, on numerous occasions, in writing, during hearings like this, and elsewhere, expressed my hope that the administration, as a whole, would change its ways and become more cooperative and transparent. I have asked countless nominees that have come before the committee to commit to being responsive to senators’ inquiries. Yet, over seven years, this unprecedented level of disregard has continued, unabated.

Given the short time left with this administration, I won’t renew these calls for more cooperation and responsiveness today. I feel quite certain that there are no new improvements on the immediate horizon.

However, given that we have a high-ranking administration official before us today, I hope that, at the very least, we can finally get some straight answers to the many questions raised by CMS’s Part B proposal.

I note that our witness, Dr. Conway, stated in an early May interview on the proposed demonstration that CMS “will interact with Congress and take feedback and make adjustments as necessary.”

I do hope that our conversation today will be more consistent with that sentiment than the dismissive response letter shortly after that statement was made. The Senators on this committee—and more importantly, the constituents we represent—deserve at least that much.

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