Senate Committee on Finance

U.S. Senator Orrin Hatch (R-UT), Ranking Member

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HATCH STATEMENT AT FINANCE COMMITTEE HEARING EXAMINING WASTE, FRAUD & ABUSE WITHIN FEDERAL HEALTH CARE PROGRAMS

WASHINGTON - U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Committee on Finance, today delivered opening remarks at a committee hearing exploring current efforts to curb fraud and abuse within the federal health care system and ensure the transparency and accountability of taxpayer dollars.

A full copy of Hatch's remarks, as prepared for delivery, follows:

There is no doubt that this is a challenging time. We are in the midst of one of the greatest fiscal crises to ever confront our country and this week Congress is making tough choices regarding spending to keep the federal government's doors open. It is fitting that we are here today to talk about risk to our health care dollars: specifically, the amount of fraud, waste and abuse in the federal health care programs. As the number of Medicare and Medicaid beneficiaries escalates, and funds to pay for those services become preciously stretched, it is imperative that we take a critical look at how tax dollars are being spent to reduce the amount of fraud, waste and abuse. I am pleased to welcome Inspector General Daniel Levinson of the Department of Health and Human Services Office of Inspector General (HHS-OIG) and Dr. Peter Budetti of the Centers for Medicare & Medicaid Service's (CMS) Center for Program Integrity today to speak on this important topic and share with us what efforts are being made to ensure the dollars entrusted to HHS are being spent wisely.

Medicare and Medicaid make up the bulk of the federal health care programs with nearly 100 million participants and more than $800 billion in outlays in 2010. When the States' Medicaid matching amounts are added in, these federal programs spend over $1 trillion per year. Estimates of the amount of fraud, waste and abuse in the these programs vary greatly, but CMS has reported that improper payments for Medicare alone in 2010 may have been nearly $48 billion and some estimates have said that the amount of fraud, waste and abuse could be nearly ten percent of our total federal entitlement program outlays.

While there is much to be explored today in how HHS-OIG and CMS are spending the money entrusted to them to curb fraud, waste and abuse, I also wish to point out that the path

to recovering these monies is a path fraught with peril. If the methods used to ferret out fraud, abuse and waste are not just, respectful of due process, and recognize distinctions between the truly “bad actors” and errors that are the result of confusing rules and ambiguous regulations, then the agencies will lose their credibility with the health care organizations they monitor and the taxpayers who expect vigorous but fair vigilance.

Figuring out how much fraud exists is the first step to better being able to determine how to address it. Determining how to effectively fight it is the next step. In the past year, Congress has given additional tools and appropriated significant new resources to the agencies testifying here today, but it remains to be seen how effective those tools and resources ultimately will be in curbing improper payments. Recent reports seem to indicate that there are reasons to be optimistic about success such as the over $4 billion in recoveries cited by HHS and the Department of Justice in their 2010 Health Care Fraud and Abuse Control Fund (HCFAC) report. Moreover, the recovery reports and figures do not address what portion is the result of intentional fraud or is attributed to mistakes due to regulations that are tripping up health care organizations by the sheer size and complexity.

I am sincerely concerned about the helter-skelter approach being taken to implement the new health care law’s tools to address improper payments. For example, the recent stop and start and then reverse guidance by CMS to States and health care organizations on Medicaid RACs is mind-boggling. PPACA required CMS to establish a Medicaid RAC program by December 31, 2010. Last month CMS sent a letter to States which effectively says “don’t worry about it” and promised to take up Medicaid RACs at an unspecified time “later this year.” The examples abound in which CMS has issued guidances, only to retract, amend or postpone them indefinitely. Is it a wonder that health care organizations think that trying to comply with agency rules can seem like stacking papers in the middle of a tornado?

Lastly, I must address the way the President’s budget for fiscal year 2012 uses health care fraud recoveries to suppress the real cost of health care reform and seeks a substantial increase in “fraud fighting funds” when this Administration has not yet shown sustained progress in reducing improper payments. I see that there is a request for a nearly $581 million increase in discretionary spending for health care fraud efforts, a significant increase over the $311 million contained in the FY 2011 continuing resolution and more than doubling the $259 million spent in FY 2010. This is a sizeable increase at a time when there are scant extra dollars to be spared in the federal budget. Just two weeks ago at the Senate Appropriations Committee Labor/HHS Subcommittee, Dr. Budetti stated that any spending reduction would be a “major impediment” for CMS’ program integrity efforts. While I appreciate the need for more resources, I wonder why that money cannot come from the $1 billion dollar implementation fund set up under health care reform rather than from additional appropriations. I think it is essential we look at the real return on investment of dollars specifically targeted toward implementation of the fraud fighting provisions of PPACA and determine their effectiveness before committing to additional spending.

Ensuring the integrity and fiscal longevity of our Federal health care programs is an essential priority for all of us and I look forward to working with you to find ways to achieve that goal. You both have difficult jobs and I thank you both for all the work you and your staff do on behalf of the taxpayers

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