

**Opening Statement of the Honorable Cliff Stearns  
Chairman, Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
“Medicare Contractors’ Efforts to Fight Fraud – Moving Beyond  
‘Pay and Chase’”  
June 8, 2012**

*(As Prepared for Delivery)*

We convene this hearing of the Subcommittee on Oversight and Investigations to examine the efforts of the Centers for Medicare and Medicaid Services’ (CMS) oversight of its Medicare contractors and to identify ways to improve the contractors’ effectiveness at preventing and combating fraud. Medicare fraud is a growing plague on our health care system. And I have personally seen how fraud impacts seniors in my district and throughout Florida.

CMS, the very agency tasked with administering Medicare and conducting and overseeing anti-fraud efforts, incredibly cannot define the scope of the problem. However, we have heard the estimates: 10% of all health care billings are potentially fraudulent—a \$60 to \$80 billion drain on federal coffers. Regardless of the ultimate number cited, every dollar lost to fraud is a dollar that should have gone towards the care and well-being of a Medicare beneficiary.

I applaud the recent efforts of federal, state, and local officials across six states in busting over 100 fraudsters—more than half of whom were operating in South Florida—in scams that totaled over \$450 million. I look forward to hearing from our witnesses today about how we can keep these criminals out of Medicare in the first place.

Since 1999, CMS has contracted with Program Safeguard Contractors, or PSCs, to prevent, identify, and investigate potential fraud. They are now in the process of transitioning these responsibilities to Zone Program Integrity Contractors, or ZPICs, though the contract recipients are primarily the same entities with the same capabilities. Unfortunately, information obtained through the Committee’s investigation indicates these “benefit integrity” contractors are not getting the job done and CMS is asleep at the wheel.

Last December, I sent a letter, along with Chairman Upton and other members of the Committee, to CMS Acting Administrator Marilyn Tavenner requesting documents related to the performance of the CMS benefit integrity contractors since 2007. Three months ago, Ms. Tavenner responded to our request with systemic performance data that included some concerning trends:

- The benefit integrity contractors identify less than 1 percent of the estimated fraud out there;
- They recover only 10% of the improper payments they identify;
- They rarely employ their authority to suspend payments to suspected fraudsters;

- They initiated fewer investigations in 2011 than in 2007; and;
- Fewer of these investigations were based on proactive analysis of claims data

The figures CMS provided to the Committee are astonishing in terms of the declining contractor effectiveness they display. However, according to CMS, while the trends are correct, the numbers provided were inaccurate. Not only were they inaccurate but—knowing that they were a key element of our hearing—CMS failed to inform Committee staff about this fact until less than 48 hours ago on a phone call initiated by Committee staff on another matter. Since they did not feel confident in the accuracy of the data they had on hand, CMS was forced to reach out to the contractors and have them resubmit as much of the data that was requested as possible. More accurate numbers were provided last evening confirming the trends. Nonetheless, this error only confirms CMS' utter incompetence in conducting any meaningful oversight of these contractors – a point that is echoed loud and clear in the IG's prepared testimony.

The complacency shown by CMS towards this Committee's oversight efforts, their repeated indifference to GAO's recommendations since, and their disregard for OIG's extensive body of work in this area must end today.

While these issues are not new, they are getting worse while the fraudsters are getting better. As the OIG's office testified before this Subcommittee in June 2001: "Medicare contractors are the heart of the Medicare program... When they don't function properly, the entire program is jeopardized—those who benefit from it, those who provide care, and those who pay for it all suffer the consequences."

This hearing proves the importance of Congressional oversight. Without the Committee asking the questions, we would never know about the serious data integrity and management issues concerning CMS oversight of its contractors. Without the Committee insisting that CMS and its contractors be accountable for meaningful performance metrics, we cannot achieve the significant improvements and results in reducing Medicare fraud. I look forward to working in a bipartisan fashion to make this hearing the start of a turning point for CMS and contractor performance.