

Senate Democratic Policy Committee Hearing

**“An Oversight Hearing on the Implementation
of the Medicare Prescription Drug Benefit”**

STATEMENT BY SENATOR JEFF BINGAMAN

February 27, 2006

I would like to thank Senator Dorgan for calling this hearing today on both the implementation problems that have plagued the Medicare prescription drug bill, including problems with the auto-enrollment and move of dual eligibles from Medicaid to Medicare but also the low enrollment rates in the low-income subsidy that I know Dr. Thomas Rice is specially going to address with respect to problems with the assets test, as that has been a long-standing concern of mine.

I am glad the hearing will also address the challenges that lie ahead for the program, including the May 15th deadline for enrolling prior to getting a late enrollment fee and the coverage gap or “donut hole.”

Earlier this month, Senators Nelson and I offered amendments on the Senate floor to address some of these problems, but unfortunately, received strong opposition from Secretary Leavitt and Senate Republican leadership. And yet, on a bipartisan basis, the Senate is now strongly on record that something needs to be done legislatively to fix problems with the Medicare drug benefit. Senator Nelson’s amendment received 52 votes and Senator Grassley’s Sense of the Senate in opposition to legislation solutions received just 42 votes.

In follow-up to a phone call that I had with Secretary Leavitt and the Finance hearing with Dr. McClellan at CMS, I sent a letter to them outlining problems that I see with the legislation itself, but also with implementation of the bill. I look forward to hearing from the witnesses about both the problems and solutions to address the many problems Medicare beneficiaries, pharmacists, doctors, states, and both Native Americans and tribal pharmacies that need to be addressed, including those I raised in the letter.

Just last week, I held two forums in New Mexico in Roswell and Silver City to discuss the Medicare prescription drug benefit. With over \$500 billion invested in the program, there are certainly those that are benefiting and I am pleased to hear it is working for some. However, what strikes me as a terrible development is that the federal government is spending over \$500 billion over the next five years and there are beneficiaries out there that are worse off, including some of our most vulnerable low-income Medicare beneficiaries.

A majority of the Senate supports some legislative fixes to the bill and I urge my colleagues to take immediate action to fix a number of things including:

- Enact the Rockefeller bill to help address the immediate problems and unreimbursed costs of Medicare beneficiaries, states, and pharmacists (including long-term care pharmacists) due to implementation problems.
- Enact legislation to either repeal or address problems with the assets test that has resulted in fewer than 1.4 million of the 8.2 million low-income Medicare beneficiaries that are not “dual eligibles” but still with incomes low enough to qualify for low-income subsidies or what is known as “Extra Help.”

The current application process is complicated, cumbersome, and contains overly burdensome paperwork requirements, including the need to ascertain the cash value of one’s life insurance policy.

I am working on bipartisan legislation to streamline and simplify the process and look forward to Dr. Rice’s testimony on the issue.

- Enact Senators Feinstein’s legislation to address yet another problem by which the Administration allows private drug plans to change their drug formularies after a Medicare beneficiary has signed up with them during the enrollment process. The bipartisan legislation would prohibit private drug plans from changing their formularies in such a manner.
- Enact Senator Nelson of Florida’s bill to extend the pending enrollment deadline of May 15, 2006, until the end of the year. This legislation gives senior citizens and the disabled more time to enroll without being subjected to a late enrollment penalty.
- Enact Senators Smith’s bill, which I am a lead cosponsor, to address a problem by which nursing home patients are exempt from prescription drug copayments for long-term residents in alternative settings, including home- and community-based care, are not. This creates an incentive for beneficiaries to desire to be enrolled in most costly nursing homes and has been a particular burden for people with cognitive disabilities. The legislation would eliminate the copayment requirements.
- And finally, today’s testimony should also provide instructive to address a whole range of other problems with the drug bill, such as the coverage gap, lack of funding for outreach and enrollment, and the denial of Medigap options for Medicare beneficiaries.

MEDICARE EXTRA ACT

Before closing and in addition to working in a number of ways to try and fix problems with the Medicare drug bill, I am working with Congressman Patrick Kennedy on legislation called the “Medicare Extra Act” that would allow Medicare senior citizens and the disabled to completely bypass all the complexity and problems associated with the current Medicare prescription drug program, which is delivered through HMOs or private drug plans.

The legislation would allow Medicare beneficiaries to get all their Medicare benefits, including prescription drugs, to be delivered directly by Medicare.

This new option, called “Medicare Extra,” would allow Medicare beneficiaries to choose between simply checking a box and getting all their benefits directly from Medicare or to sign up for coverage via Medicare HMOs or the private drug plans.

For many senior citizens and the disabled, the new Medicare prescription drug plan is overly complex and overwhelming. New Mexico, for example, has over 40 private drug plan options, with varieties of deductibles, copayment levels, drug formularies, prior authorization requirements, first-fail policies, etc. and would strongly prefer to get their prescription drug coverage directly from Medicare, just as they do all other benefits.

The legislation also allows the federal government to use its market clout and negotiate directly with prescription drug companies to obtain less expensive drug prices on behalf of Medicare beneficiaries and American taxpayers.

For those that prefer enrolling in Medicare HMOs or private drug plans, they could continue to do so.

I would ask the witnesses what they think about such an initiative and, once again, thank them and Senator Dorgan for having this important hearing.