

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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WASHINGTON, DC 20515-6115

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January 20, 2010

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Representative Barton:

I share the view expressed in your December 2, 2009, letter that it is important for the Committee to comply with the provisions in House Rule XI requiring at least one oversight hearing on federal programs or operations GAO has identified as being at “high-risk” and at least one oversight hearing every 120 days on waste, fraud, abuse, or mismanagement in government programs the Committee authorizes. That is why I am pleased to report that the Committee on Energy and Commerce has complied with this rule.

Last year, the Committee held hearings on a wide range of issues relating to waste, fraud, abuse, or mismanagement in federal programs authorized by this Committee. In the first 120 days of the session, such hearings included:

- Subcommittee on Oversight and Investigations, *Hearing on the Salmonella Outbreak: The Continued Failure to Protect the Food Supply* (Feb. 11, 2009) (examining a deadly food safety outbreak at a peanut butter manufacturing plant and flaws GAO identified in its “high-risk” series regarding Food and Drug Administration management of oversight over the nation’s food supply);
- Subcommittee on Commerce, Trade, and Consumer Protection, *Hearing on Revisiting the Toxic Substances Control Act of 1976* (Feb. 26, 2009) (examining deficiencies in the Environmental Protection Agency’s process for assessing and controlling toxic chemicals that GAO identified in its high-risk series); and
- Subcommittee on Oversight and Investigations, *Hearing on Institutional Review Boards that Oversee Experimental Human Testing for Profit* (Mar. 26, 2009) (examining inadequacies in FDA’s management of the process for certifying institutional review boards and assessing the sufficiency of their oversight of human testing protocols).

In the second 120 days of the session, the Committee held additional hearings examining waste, fraud, abuse, or mismanagement, including:

- Subcommittee on Oversight and Investigations, *Hearing on Commercial Sales of Military Technologies* (June 4, 2009) (examining the government's mismanagement of export controls on sensitive technology with military applications, including concerns GAO identified in its high-risk series regarding the failure of the Department of State and the Department of Commerce to coordinate export control activities over sensitive technology); and
- Subcommittee on Health, *Hearing on Medical Devices: Are Current Regulations Doing Enough for Patients?* (June 18, 2009) (examining whether FDA has made sufficient efforts to bring medical devices under modern regulatory authorities, a core problem identified by GAO).

During the fall, the Committee was extraordinarily busy with moving historic comprehensive health care reform, along with other communications, consumer protection, and financial reform legislation. Nonetheless, the Committee maintained a full oversight schedule and met its responsibilities under the House rules during the final 120-day period of 2009. For example, during this time, the Subcommittee on Oversight and Investigations held a hearing examining the following concerns GAO identified regarding federal government mismanagement of high containment bio-laboratories: (1) allowing continuing expansion of these labs since 2001 without a clear, coordinated national strategy; (2) the absence of a legislative or executive mandate to a single federal agency to track the expansion of these labs; and (3) the failure of the federal government to develop more stringent safety and security protocols to reduce accidents in these labs that result from human error and systems failure.¹

Your letter specifically asks about the Medicare and Medicaid programs. In this area, the Subcommittee on Health held a series of hearings on health reform earlier in the year that included testimony on fraud and abuse in the Medicare and Medicaid programs.² The Committee then developed and reported comprehensive healthcare reform legislation, H.R. 3200, which addressed many of the recommendations of the Department of Health and Human Services Office of Inspector General (OIG) for reducing waste, fraud, and abuse in Medicare and Medicaid.³ In total, the health care reform bill as reported by the Committee contains 32

¹ Subcommittee on Oversight and Investigations, *Hearing on Federal Oversight of High Containment Bio-Laboratories* (Sept. 22, 2009).

² See Subcommittee on Health, *Health Care Work for American Families: Designing a High-Performing Healthcare System* (Mar. 10, 2009), Statement of Alan Levine, and Subcommittee on Health, *Hearing on Comprehensive Health Reform Discussion Draft, Day 3* (June 25, 2009), Statement of Daniel R. Levinson.

³ The Inspector General testified before the Health Subcommittee that "My office has provided technical assistance, as requested, to staff from the Committee, and we welcome the fact that many of OIG's recommendations have been incorporated into the House Tri-Committee health reform discussion draft." Statement of Daniel R. Levinson before

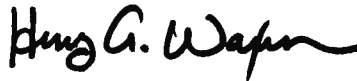
The Honorable Joe Barton
January 20, 2010
Page 3

provisions addressing waste, fraud, and abuse in both Medicare and Medicaid⁴ and an additional 11 provisions addressing waste, fraud, and abuse in Medicaid.⁵

In its October 29, 2009, letter regarding H.R. 3962, the Congressional Budget Office estimated that the anti-fraud provisions in Title VI and VII reported by the Committee will reduce federal spending by \$1.6 billion over the next 10 years.⁶ CBO also estimated that the increase in funding for the Health Care Fraud and Abuse Control program provided for in the Committee-reported bill will result in additional but nonscoreable savings of \$1.3 billion over the next 10 years.⁷

I am proud that our Subcommittee chairs and other Committee members have done extraordinary work to both identify and remedy waste, fraud, abuse, and mismanagement in many areas of the federal government throughout 2009. I look forward to continuing this record and I will take into consideration your hearing requests as we continue to develop the Committee's agenda for the new year.

Sincerely,



Henry A. Waxman
Chairman

the Subcommittee on Health, *Hearing on Comprehensive Health Reform Discussion Draft, Day 3* (June 25, 2009), Transcript pp. 11-12, lines 190-194.

⁴ Title VI of Division B of H.R. 3200 as reported in the House, H. Rept. 111-299, Part I (Oct. 14, 2009).

⁵ Subtitle F of Title VII of Division B of H.R. 3200 as reported in the House, H. Rept. 111-299, Part I (Oct. 14, 2009).

⁶ Letter from Douglas Elmendorf, Director, Congressional Budget Office, to the Honorable John D. Dingell (Nov. 6, 2009).

⁷ Other examples of legislation to address issues revealed by Committee oversight include H.R. 2749, the Food Safety Enhancement Act of 2009, which provides FDA authorities and resources it needs to better oversee the safety of the nation's food supply, and which the Committee ordered reported on June 17, 2009.