

Congress of the United States
House of Representatives
Washington, D.C. 20515

February 3, 2004

The Honorable Tommy G. Thompson
Secretary of Health and Human Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Mr. Secretary:

We are writing to you regarding the recent news that the Administration estimates that the Medicare prescription drug bill signed into law in December will cost more \$534 billion over the next ten years — \$134 billion more than estimated by the Congressional Budget Office at the time of passage. In particular, we are concerned about reports that although the Administration knew of these estimates well before passage of the legislation, this news was withheld from Congress and the public until just last week.

The President indicated on January 30, 2004, that he learned of the new estimate of the costs of the drug benefit only two weeks ago.¹ But recent press accounts suggest that the Administration was aware of these costs well before Congress passed the legislation. The *Washington Post* reported that “administration officials had indications for months that the new Medicare prescription drug law might cost considerably more than the \$400 billion advertised by the White House and Congress.”² According to the *New York Times*, Tom Scully, who was Administrator of the Center for Medicare and Medicaid Services (CMS) when the bill was passed, said, “the [cost] estimate may be surprising to some people, but it’s not shocking to me.”³

Yesterday, the *New York Times* reported that “the administration now says the actuaries’ cost estimates have been over \$500 billion since last summer.”⁴ The article also quotes you as saying that “Congressional staff knew our actuarial numbers . . . There was no attempt to keep

¹ *Bush Says He’s Undaunted by Drug Costs*, New York Times (Jan. 31, 2004); *White House Brushes Aside Criticism over Medicare Plan*, Los Angeles Times (Jan. 31, 2004).

² *Higher Medicare Costs Suspected for Months*, Washington Post (Jan. 31, 2004).

³ *White House Defends Medicare Law Despite Higher Price Tag*, New York Times (Jan. 30, 2004).

⁴ *White House Now Says Congress Underestimated New Medicare Costs*, New York Times (Feb. 2, 2004).

our number camouflaged.”⁵ While we have no knowledge of what you communicated to Republican staff, we can say categorically that this information was not communicated to us or our staff. Moreover, you and other administration officials continued to state publicly that the legislation would cost only \$400 billion when Congress was voting on the legislation.⁶

The new cost estimate for the final bill has critical implications. If the Administration’s new higher estimate is correct, the limited prescription drug benefit, which was crafted by the White House and Republican leaders, will now have a far higher price tag for its meager services than previously estimated. And the federal budget deficit, which was already anticipated to reach record levels, will now be even larger than expected.

Moreover, critical parts of the Medicare program, not just the prescription drug provisions, could be put at risk. The \$134 billion in additional costs could trigger a little-noticed provision of the Medicare law, potentially causing significant cutbacks in the drug benefit and Medicare payments to physicians and clinics.⁷ Under this provision, if the costs of Medicare Part B (physician and outpatient services) and Medicare Part D (the new drug benefit) exceed 45% of total Medicare costs in any two-year period, Congress must consider legislation under expedited procedures to cut funding for the drug benefit or physician payments or both.

Congress and the public should know what the Administration knew about the costs of the prescription drug benefit and when the Administration knew it. For this reason, we request that you provide us with all estimates of the costs of adding a new prescription drug benefit to Medicare and cost estimates and other analyses (e.g., plan and beneficiary participation) for legislation to increase the presence of HMO and other private plans under Medicare that have been prepared since January 1, 2003, by the HHS Office of the Actuary. This information should include any estimates by the Office of the Actuary of the costs of:

- (1) S. 1, the legislation passed by the Senate;
- (2) H.R. 1, the legislation passed by the House;
- (3) Versions of the final legislation that were under consideration by the conference committee appointed after Senate passage of S. 1 and House passage of H.R. 1; and

⁵ *Id.*

⁶ See, e.g., Tommy G. Thompson, *Fox News Special Report with Britt Hume* (Nov. 24, 2003); Tom Scully, *The Medicare Bill: A Good Thing* (Letter to the Editor), *New York Times* (November 20, 2003) Tom Scully, *The Right Prescription for Medicare* (Letter to the Editor), *Chicago Tribune* (Nov. 23, 2003).

⁷ Public Law 108-173, Section 801(e).

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(4) The final legislation signed by the President on December 8, 2003.

In addition, we are requesting the CMS Actuaries' analysis of the legislation's impact on the projected solvency dates of the Medicare Hospital Insurance Trust Fund and the actuaries' analysis comparing the payments to various private plans relative to Medicare.

Given the significance of this matter, we request that you provide these cost estimates to our offices by February 17, 2003.

Sincerely,



Henry A. Waxman
Ranking Minority Member
Committee on Government
Reform



John D. Dingell
Ranking Minority Member
Committee on Energy and
Commerce



Charles B. Rangel
Ranking Minority Member
Committee on Ways and
Means