

**Opening Statement**  
**of**  
**Senator Chuck Grassley**  
**Chairman, Senate Special Committee on Aging**  
**JACKPOT: Gaming the Home Health Care System**  
**Monday, July 28, 1997**

Good Afternoon and welcome to this hearing entitled *JACKPOT: Gaming the Home Health Care System*. I would like to begin by extending thanks to my Colleagues, to the witnesses and to members of the public for their interest in this critically important issue--fraud, waste and abuse in the home health care system.

I would like to tell you how this hearing came about. Over the past few months the Committee on Aging asked the Department of Health and Human Services, the Federal Bureau of Investigation, and the General Accounting Office, among others--each independently-- the following question: If there was only one hearing that could be conducted by the Committee on Aging what would it be? The unanimous response was "home health care fraud." Why? Because it is the fastest growing component in the health care system.

The numbers associated with home care are truly astronomical. Imagine in 1989 taxpayers spent \$2.6 billion on home health care. Today we are spending about \$18 billion. What's even more amazing is that the figure is likely to grow to more than \$21 billion in the next few years. That's a lot of money. I call that "meteoric" growth.

But the story does not end there. There are legitimate reasons for growth in home health care. For instance there are more elderly people in need of home care. In addition, home health allows people to stay at home instead of going to a nursing home.

But there is a darker side to the story. Some folks are "taking a bite" out of every taxpayers pocket. Fraud, waste and abuse are rampant. Home care fraud, waste and abuse is what this hearing is about. It is what we are going to see, thanks to the FBI. Even more important, we are going to put a face on home health care fraud.

Deterring, identifying and prosecuting health care fraud is tough. It is resource intensive, labor intensive and dependent on documents. So, I thought that it would be important today to illustrate, as vividly as I could, the importance of "documentary evidence."

As part of the hearing today, you are about to witness a videotape of a physician caught by the FBI in the act of changing legitimate billing records prepared by his medical staff. The physician

is engaged in health care fraud. These changes caused bills to be sent to insurance carriers for services either not given or inflated to a higher reimbursement rate, what's typically called "upcoding."

This video was made through the use of a court order. The Department of Justice approved closed circuit television (CCTV) allowing the FBI to install the device in the business area of the physician's office. The camera was not in the patient examination area for privacy reasons. The FBI also took precautions to ensure the privacy of the patients by not recording patient identifying information. Finally, the FBI has ensured that the defendant, who is now a convicted felon can not be identified through the use of this videotape in this hearing. This physician has pleaded guilty to submitting false claims to a health benefit plan and is serving a prison sentence.

I also want to say that this extraordinary investigative technique was employed as the only method to identify the individual or individuals responsible for changing the billing records. The correct billing records were changed for the purpose of increasing the reimbursement amounts paid to the doctor. An often encountered defense used by those committing health care fraud is that the false billing was the result of some inadvertent billing error committed by the billing clerk. However, with the invaluable help of the video tape you are about to see and after a careful review and analysis of the initial and the altered bills versus the medical charts, the individual responsible, a doctor, is identified for submitting hundreds of fraudulent claims. I would ask that Assistant Special Agent-In-Charge John Lewis come to the witness table to explain what we are about to see in this video. Just so everyone knows, Special Agent Lewis, during the investigative phase of this case, was the supervisor of the Health Care Fraud squad in the FBI field office where this investigation was conducted.

(Video is played. Special Agent Lewis testifies.)

Today's oversight hearing is concentrated on waste, fraud and abuse. Now this is not to say that everyone in the home health care industry is a "crook"--that is simply untrue--Indeed most of the home health care providers are honest, caring individuals, giving the American taxpayer--their money's worth.

Let me now turn to the five witnesses we have here today. On the first panel is an individual who knows, first-hand about home health care fraud. She is presently serving a 33 month sentence in federal prison for home health care fraud. The second panel is made up of two witnesses representing the Office of the Inspector General at the Department of Health and Human Services and the General Accounting Office. These panelists will provide us with the findings of several intensive reviews that they completed recently regarding home health care. The third panel has two witnesses as well. One panelist represents a fiscal intermediary for Medicare home health, and I am proud to say headquartered in Iowa and the second and final panelist is the Secretary of Health for the State of Louisiana.

Finally, before turning to my distinguished colleague, Senator Breaux, I want to continue encouraging every American who pays taxes, who has elderly parents, who has aging family members and who will one day, with a little luck grow old graciously, to continue helping the law enforcement community. The Government doesn't pay for Medicare. You do. I do. We all do. Your continued help is critical in helping keep the safety net of home care available to those who need it today and for those who will need it tomorrow.

### **Closing Remarks**

Before concluding this hearing, I would like to again thank our witnesses, and special word of thanks to Ms. Garrison. Ms. Garrison, without your insightful, candid and personal testimony we would not be as informed as we are now regarding home health care fraud. In addition I would like to thank Helen Albert of the HHS Office of Inspector General (OIG) and Wayne Oakes of the FBI. These two folks worked tirelessly to insure that we could put a "face" on home health care fraud, waste and abuse.

We have heard a great deal of testimony here today. One could say it's a pretty scary picture. The HHS OIG advised us that 40% of the total services provided by home health care agencies should not have been paid. The GAO noted that Medicare's survey and certification process is ineffective. But I do believe that there is light at the end of the tunnel. As I am sure many would agree, you're a lot better off with information than you would be without it.

Thanks to the incredible testimony that I heard here today, I, as a Member of the Senate, am better equipped to legislate. As we all know, legislation for the sake of legislation is pointless. However, legislation that is carefully targeted and crafted to address a problem can make a positive difference.

Today, we heard countless proposals regarding how to contain home health care costs and how to increase accountability. We heard ideas ranging from increasing the number of signators on a cost report, to imposing a moratorium on new home health care agency certifications, to requiring that each home health agency's principals have prior health care experience. These proposals will be examined carefully and refined to capture the desired result.

I am committed to producing legislation that is the "right fix" not just a "fast fix." As a result, I have instructed my staff to call together the HHS OIG, the GAO, the FBI, HCFA and others to work and identify the right combination of proposals that will put an end to the economic jackpot home health care fraud, waste and abuse has become.

I would be remiss if I did not emphasize to Americans across this vast and great Nation--who are or will be using home health care --what I call Citizen Tips:

*(1) Select a reputable/known home health agency*

*(2) Be aware and understand the coverage to which you are entitled--read everything carefully*

*(3) Become familiar with your rights and responsibilities*

*(4) Protect your health care insurance information or numbers, just like you would your Social Security Number*

*(5) Don't give into pressure to accept unneeded items and services and keep relevant records (6) Review statements sent by insurance companies and if you find an error-- make it a matter of public record*

*(7) Utilize qui tam; a legal process that empowers private citizens to bring action for illegal acts--and in return the qui tam plaintiff can receive a portion of any money recovered*

With these thoughts in mind, I want to again say thank you for attending this hearing and have a great afternoon.