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May 19, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Loretta Lynch  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Lynch,

According to news reports, there is an increasing number of lawsuits against insurance companies for potential Medicare Advantage fraud.<sup>1</sup> Some insurance companies that offer Medicare Advantage are allegedly engaging in billing abuse by altering patient records in order to claim patients are sicker than they actually are. Medicare Advantage uses risk scores to determine how much insurance companies are reimbursed with higher rates for sicker patients. News reports indicate that some insurance companies are wrongfully claiming sicker patients, leading to inflated risk scores and reimbursements. Reportedly, the Department of Justice (DOJ) is investigating this issue.<sup>2</sup>

Medicare Advantage costs taxpayers more than \$150 billion per year. Reportedly, between 2008 and 2013, risk score gaming caused approximately \$70 billion in improper Medicare Advantage payments.<sup>3</sup> According to the Government Accountability Office, the Centers for Medicare and Medicaid Services (CMS) “could save billions of dollars by improving the accuracy of its payments to Medicare Advantage programs, such as through methodology adjustments to account for diagnostic coding differences between Medicare Advantage and traditional Medicare.”<sup>4</sup>

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<sup>1</sup> Fred Schulte, “More whistleblowers allege health plan overcharges,” THE CENTER FOR PUBLIC INTEGRITY (April 23, 2015). See also, Fred Schulte, “Why Medicare Advantage costs taxpayers billions more than it should,” THE CENTER FOR PUBLIC INTEGRITY (June 4, 2014).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> GAO-15-404SP, 2015 Annual Report.

With the reported increase in risk score gaming, and the monumental cost that the taxpayer will shoulder for such wrongdoing, it is imperative that CMS implement safeguards to reduce risk score fraud, waste and abuse. Moreover, if the reports of abuse are true, CMS should increase its auditing practices. Safeguards become all the more important as Medicare Advantage adds more patients and billions of dollars of hard-earned taxpayer money is at stake.

Accordingly, please provide the following:

1. What steps has DOJ taken, and is currently taking, to ensure that insurance companies are not fraudulently altering risk scores? Please provide a detailed explanation.
2. Is DOJ working in conjunction with CMS to investigate risk score fraud? Please explain the relationship. If not, why not?
3. In the past 5 years, how many Medicare Advantage risk score fraud investigations has DOJ conducted? Of the investigations, how many resulted in criminal and/or civil sanction?

Thank you for your cooperation and attention to this matter. Please number your responses according to their corresponding questions and respond no later than June 3, 2015. If you have any questions, please contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary