

Opening Statement of Senator Herb Kohl
May 16, 2007
Special Committee on Aging Hearing
“Medicare Advantage Marketing & Sales: Who Has The Advantage?”

We welcome everyone to today’s hearing. We particularly thank our witnesses for taking time out of their busy schedules to be with us. Today we will examine the sales and marketing practices involving Medicare Advantage plans. I want to make it clear at the outset that we’re not taking any position on the benefits or relative costs of Medicare Advantage. These plans may be appropriate and beneficial for many individuals, under the right conditions.

Rather, our focus and concern today is with the numerous and widespread complaints involving the sales and marketing of Medicare Advantage plans which are being aggressively promoted around the country. For those of you not familiar with Medicare Advantage plans, they are private plan options, ranging from managed care to private fee for service plans, which are offered to Medicare beneficiaries as an alternative to traditional Medicare. While they have been in existence for some time, Medicare Advantage plans are now the fastest growing segment of the Medicare world and are an increasingly profitable enterprise for many plan sponsors.

Unfortunately, wide-spread confusion—and in some cases outright misrepresentation and fraud—have been associated with the sale of these plans. Complaints appear to be nationwide, and a troubling pattern has emerged. Today we will hear from two distinguished state insurance commissioners: Sean Dilweg of Wisconsin and Kim Holland of Oklahoma. They will outline the problems associated with Medicare Advantage plans and tell us what some states, as well as the National Association of Insurance Commissioners, are doing to address them.

Our investigation has revealed a disturbingly consistent picture, one which only seems to be growing. Countless seniors purchasing Medicare Advantage plans have been preyed upon and unwittingly taken advantage of by insurance agents. Seniors have been removed from traditional Medicare without their knowledge, signed onto plans they can’t afford, misled regarding coverage, and told their doctors accept these plans, when in reality they don’t. This is simply unacceptable.

One of the most troubling problems we have seen involves insurance agents misrepresenting and marketing Medicare Advantage plans in inappropriate manners and places, such as within nursing homes. We’ll hear more about that from Sherry Mowell, an investigator from Georgia. Just as seriously, many insurance sales agents simply do not understand the important differences between traditional Medicare and the multitude of other plans available to seniors, including the Medicare Advantage plans they are peddling. Too many of our seniors are paying a terrible price for those frauds, misunderstandings, and outright ignorance.

We'll also be learning about the sales training received by the insurance agents selling Medicare Advantage plans. At our request, plan sponsors have provided the Committee with an array of well-developed and impressively written training manuals and programs required for those who sell Medicare Advantage. Sadly, what's on paper does not always translate to the real world--in this case, not by a long shot.

Lastly, we will examine the details of the federal-state oversight partnership as it concerns Medicare Advantage sales and marketing. Based on current law, CMS has exclusive authority to investigate and discipline plans marketing and selling Medicare advantage products. The states have been permitted to investigate and enforce violations against insurance agents only. This unusual arrangement, which some might call a pre-emption of authority, seems to have left a sizable enforcement gap that has exacerbated the problems found by the Committee. To address this, I have begun working with the National Association of Insurance Commissioners and other stakeholders to develop legislation that would give states expanded authority to oversee plans and agents.

We are not suggesting today that CMS has done nothing to address these problems—or that CMS officials are unconcerned about them. According to some state officials, CMS regional offices have made legitimate efforts to lend a hand, as they should, particularly when fraud and confusion have left our seniors with health insurance gaps and unnecessary additional costs. Nevertheless, it is clear that a major disconnect in oversight exists--one which needs to be addressed immediately.

I am pleased that today's hearing is already having a positive effect. In the last week, some Medicare Advantage plans announced initiatives to reform their marketing and sales practice guidelines. The America's Health Insurance Plans (AHIP) is here today to discuss its new initiative to strengthen training for its members' agents and brokers. This is a good start, but it is only a start. As we know, the number of Medicare Advantage plans being offered to beneficiaries is growing rapidly. We must remain vigilant in our oversight of these plans- and I intend to do so. If more hearings are necessary to hold feet to the fire, we will hold them. Cleaning up these marketing and sales practices is a priority of mine. Let me be clear, this issue will not go away after this hearing and neither will I.

I look forward to hearing from our witnesses today, with whom we will work to identify and address the shortcomings in the marketing and selling of Medicare Advantage plans. With that, we turn to Senator Smith for his opening statement.