[House Hearing, 110 Congress]
[From the U.S. Government Printing Office]

A REVIEW OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FISCAL YEAR 2009 BUDGET

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HEARING

BEFORE THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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FEBRUARY 28, 2008

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Serial No. 110-90

Printed for the use of the Committee on Energy and Commerce

energycommerce.house.gov

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U.S. GOVERNMENT PRINTING OFFICE
49-472 WASHINGTON : 2009

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Witness

A REVIEW OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FISCAL YEAR 2009 BUDGET

THURSDAY, FEBRUARY 28, 2008

House of Representatives,
Committee on Energy and Commerce,
Washington, DC.

The committee met, pursuant to call, at 9:40 a.m., in room 2123 of the Rayburn House Office Building, Hon. John D. Dingell [chairman of the committee] presiding.

Members present: Representatives Dingell, Waxman, Markey, Pallone, Eshoo, Stupak, Engel, Wynn, Green, DeGette, Capps, Harman, Schakowsky, Solis, Gonzalez, Inslee, Barrow, Hill, Barton, Hall, Upton, Shimkus, Wilson, Fossella, Pitts, Terry, Ferguson, Myrick, Murphy, and Blackburn.

Staff present: Bridgett Taylor, Purvee Kempf, Amy Hall, Yvette Fontenot, Hasan Sarsour, Melissa Sidman, William Garner, Jeanne Ireland, Jack Maniko, Jessica McNiece, Virgil Miller, Jodi Seth, Brin Frazier, Lauren Bloomberg, Jonathan Brater, Jonathan Cordone, Dennis Fitzgibbons, Ryan Long, Nandan Ken Kermath, Chad Grant, Melissa Bartlett, and Linda Walker.

OPENING STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN

Mr. Dingell. Today the Committee will hear testimony from the distinguished Secretary of Health and Human Services in support of the Administration's fiscal year 2009 budget request.

The Chair advises members that we will follow the usual procedures as prior full committee hearings have done with respect to opening statements and questions. In brief summary, members who are present when the committee is called to order will be recognized in order of their seniority on the full committee. Second, members who arrive after the committee is called to order will be recognized in the order that they arrive at the hearing. But all members in this category will be recognized after members who were present when the Chair called the committee to order, and the clerk will make the necessary notations.

Without objection, the full statement of the Chair will be inserted in the record, and Mr. Secretary, we welcome you and thank you for being here. I would just say in my welcoming remarks, unfortunately, Mr. Secretary, you appear before the committee under circumstances I think neither of us would have sought and I would observe that the differences that are probably going to be existing between you and the members of the committee and the Chair will be related to activities of persons elsewhere rather than either of us.

In any event, first on February 1, the Committee sent a detailed request for information regarding important programs administered by the Department including Medicare for seniors, SCHIP for children, Medicaid for low-income families and the safety of food and drug supplies. The response to that letter was received approximately 12 hours ago, I note not in sufficient time to assist the Committee in its inquiry today.

Second, recently a distinguished panel of experts from FDA Science Advisory Board recommended the agency's non-user fee budget be increased by $375 million for 2009. That is regrettably seven times greater than the budgetary request that you have been permitted to submit to the Committee, Mr. Secretary.

Third, over the next 10 years the budget proposal would cut Medicaid by nearly $83 billion, reduce Medicare spending by $576 billion and inadequately fund the State Children's Health Insurance Program below the levels of the discussion in the fight we had over this program last year and early this year. This is the very same program that we tried to improve on a bipartisan basis but was twice vetoed by the President.

Fourth, the budget proposal would cut traditional Medicare providers while protecting the interests of private HMOs and fails to help physicians with a looming 10 % cut in their fees.

Mr. Secretary, this Committee is going to have to continue its vigorous review of your department's programs to ensure that the American people are protected and that their government fulfills its promises to them to provide healthcare for its most vulnerable citizens. We look forward to your cooperation, and I know you share these objectives personally even if the evidence is available that the Administration does not.

[The prepared statement of Mr. Dingell follows:]

Statement of Hon. John D. Dingell

Today we are pleased to have Secretary Leavitt to discuss the President's Fiscal Year 2009 Budget for the Department of Health and Human Services.

This year's budget request proposes significant cuts in vital health coverage and public health programs that would actually hurt efforts to provide health insurance to our Nation's children. It would not provide enough funding to preserve coverage for the children currently enrolled in the State Children's Health Insurance Program (SCHIP). It would unwisely eliminate SCHIP coverage for children in families with incomes above $44,000 a year, and it would restrict the ability of States to cover children in families with incomes above $35,200.

Coupled with Medicaid cuts of nearly $83 billion over the next 10 years, and an unauthorized regulatory assault on the Medicaid program, it appears that the mission in the waning days of this administration is to shred the health insurance safety net. We have heard from several Governors that these regulations are excessively burdensome for the States and for Medicaid beneficiaries.

This budget also proposes a reduction of $576 billion over the next 10 years in Medicare program spending. That is an astonishing figure, but what is more astonishing is that it proposes drastic cuts to traditional Medicare providers such as doctors and hospitals, while protecting private HMOs. Private HMOs in Medicare will continue to receive excessive payments at the expense of beneficiaries, other providers, and taxpayers.

In order to protect special interests and advance its privatization agenda, the Bush Administration continues to ignore recommendations from outside experts that HMO payments be reduced. Under this budget, beneficiaries will lose their choice of doctor and hospital and be forced into HMOs. The vision in this budget, if it has one, is that traditional Medicare will, in the words of former Speaker Gingrich, ``wither on the vine.''

Beneficiaries would also take a direct hit from this budget. It would dramatically increase the number of beneficiaries paying a higher Part B premium, and it proposes tying Part D premiums to income.

Finally, the President's budget does nothing to address the pending 10 % cuts to physician fees, a real failure of leadership. This decision, combined with the new cuts proposed for both Medicare and Medicaid, leaves little doubt that the Administration is dramatically unraveling our national commitment to provide health care to our most vulnerable citizens.

Unfortunately, public health priorities in the President's FY2009 budget fare little better. Under the Administration's proposal, six of the eight Public Health Service Act agencies charged with protecting the Nation's health and well-being would receive critical cuts to their budget. As for the other two agencies, the National Institutes of Health (NIH) would receive flat funding and the Food and Drug Administration (FDA)

increase is woefully inadequate.

I am particularly disappointed in the level of increase that the Administration has allocated for the FDA FY2009 budget. After the number of food and product recalls last year, many had hoped that the Administration would finally request the resources needed to ensure that the FDA could fulfill its mission to protect the public health. Unfortunately, that does not appear to be the case.

In fact, the Chair of the recent FDA Science Board subcommittee report testified before the Subcommittee on Oversight and Investigation that FDA's science base and resources had eroded so much that the Science Board concluded that ``Americans lives are at risk.''

Furthermore, the Administration budget proposes only flat funding for the NIH. This would further erode the Nation's premier biomedical research capacity, harming the health of Americans now and in the future. Because 80 % of NIH's annual funding goes out through grant, contract, and training awards to extramural scientists throughout the country, it provides important investment in many economically troubled regions of the country, including my State of Michigan.

The Centers for Disease Control and Prevention (CDC), the premier public health disease prevention and control agency, is slated for a $433 million cut. This would threaten our Nation's capability to prepare, detect, and control infectious diseases. It would also threaten our capacity to adequately conduct bioterrorism preparedness. Finally, it would threaten our capacity to provide vaccines to children. Unfortunately, CDC is one of six public health agencies for which the Administration has proposed budget cuts.

In closing, I would like to point out an inconsistency in the President's budget proposal. The President's budget would slash funding for many important health programs, and it would eliminate some altogether, such as the Prevention Block Grant and Health Professions programs.

As justification, President Bush states that the programs are ``not based on evidence-based practices'' and, in another case, that ``evaluations have found these activities do not have a demonstrated impact.'' I am confused as to why the President does not apply these same standards to the ``abstinence-only'' programs, for which he has proposed another huge increase of $28 million, despite the fact that study after study, including a 10-year study commissioned by the President's own Administration, has shown these programs to be ineffective at best, and in some cases actually counterproductive.

Mr. Secretary, we have many questions about the Administration's budget for Fiscal Year 2009. The Committee welcomes you as we look to the Administration to explain its justifications for many problematic proposals.

Mr. Dingell. Mr. Secretary, the Chair recognizes now our good friend, Mr. Upton.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Upton. Well, thank you, Mr. Chairman. I just want to say, I am not sure--I have got other committee business this morning. I may not be here, knowing that we have got a lot of questions that will be here. I welcome your attendance and I respect you quite a bit. I look forward to continuing to work with you.

I just hope in your testimony you are able to talk a little bit about the Medicare physician fee schedule, which as you know expires or we come to a threshold decision date come July 1. I note that there was nothing in the President's budget relating to that, and I sure would welcome in your testimony this morning ways for us to work together to address that. It is an urgent need certainly in Michigan where we see a number of physicians deciding not to accept patients if we don't deal with this issue, and again, I welcome you here today and I look forward to your testimony. I yield back.

Mr. Dingell. The time of the gentleman has expired. The Chair recognizes now the distinguished gentleman from California, Mr. Waxman.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Waxman. Thank you, Mr. Chairman.

Mr. Secretary, I want to welcome you to our committee. I wish you were here to give us better news about the budget that the President is proposing instead of what we will hear is that the most that an agency could hope for in this budget is to be flat-funded, and more typically, budgets were slashed.

I am particularly concerned about the President's budget for FDA. The most recent of many reports indicating FDA is in serious trouble came from FDA's own Science Board. This chronic underfunding has jeopardized the FDA to the point that American lives are now at risk. We have asked the Science Board for their review of the budget. They told us FDA would need an increase of over 5 times what the President had requested. It is clear that Congress is going to have to adjust the President's budget proposals to reflect the realities of public health that we face.

The budget also creates a crisis that doesn't now exist by including seven new Medicaid regulations that will go into effect. Just the other day we heard from governors on a bipartisan basis, they expressed their really enormous concern about those Medicare proposals. I hope we can discuss them further today and in the future, and I stayed a little bit within the 1 minute but exceeded it by a few seconds, but thank you very much.

Mr. Dingell. The time of the gentleman has expired. The Chair recognizes now the gentleman from Illinois, Mr. Shimkus.

Mr. Shimkus. Thank you, Mr. Chairman. I will defer for questions.

Mr. Dingell. The gentleman waives. The Chair recognizes now the distinguished gentleman from New Jersey, Mr. Pallone.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Pallone. Thank you, Mr. Chairman.

The President intends to slash roughly $200 billion from the Medicare/Medicaid programs. He is proposing to do this by shifting costs to the States, providers and beneficiaries, and in the wake of an economic downturn, I can't imagine a worse idea. States are already struggling with a lack of funding. In my home State of New Jersey, for example, our governor had to freeze State spending in order to close our budget shortfall, and more and more hospitals are closing in New Jersey including Muehlenberg Hospital in my district, which announced its closing last week.

The Bush Administration has launched an all-out attack on Medicaid over the last year. Two days ago we had a hearing in the Health Subcommittee to discuss some of the very harmful regulations that have been recently issued, and this budget proposal is no different. It includes $33 billion in cuts to the Medicaid program. For the Medicare program, the President has proposed $116 billion in cuts over 5 years, and these cuts are focused mostly on hospitals, nursing homes and healthcare providers, the exact services that our seniors need the most: access to healthcare, inpatient treatment and long-term care.

Perhaps the most infuriating aspect about these Medicare cuts is that they will be used in part to finance overpayments to HMOs. MEDPAC, the Medicare Payment Advisory Commission, our expert advisory body on Medicare payment policy, recently reported that CMS is paying the private insurers on average 13 % more than traditional Medicare pays for the same treatment. MEDPAC actually called for the elimination of these overpayments and, forgive me, but it seems wrong to cut funds for vital Medicare services that our seniors need to stay healthy in order to overpay insurance companies.

Another alarming aspect of this budget proposal is the way the President has portrayed the request for CHIP monies as a funding increase. In his budget, however, the President only requests $19.7 billion for CHIP while the Center on Budget and Policy Priorities estimates that CHIP needs a funding increase of $21.5 billion to simply sustain the current programs.

And finally, I would like to mention the funding for the FDA. Just a few days ago, the Energy and Commerce Committee received a report from the Science Board that estimated the cost of adequately funding the FDA. The FDA is in need of a serious infusion of cash and talent in order to fulfill its scientific and regulatory mission yet unfortunately the Administration shortchanges this critical agency, thus imperiling the public health.

Now, Mr. Chairman, I have a lot of other concerns with the President's budget proposal, which I will get to during the questioning, but I think in the last few days between our Health Subcommittee hearing and these Medicaid rules and what we have heard in the oversight on FDA, we need to make a lot of changes. This budget really is a disaster, in my opinion, for the healthcare system.

Thank you, Mr. Chairman.

Mr. Dingell. The Chair thanks the gentleman. The Chair recognizes now the gentleman from Nebraska, Mr. Terry.

Mr. Terry. I waive.

Mr. Dingell. The gentleman waives. The Chair recognizes now the gentlewoman from California, Mrs. Eshoo.

Ms. Eshoo. Mr. Chairman, thank you. I will defer for questions. Thank you.

Mr. Dingell. The gentlewoman defers. The Chair recognizes now the distinguished gentlewoman, Ms. Myrick.

OPENING STATEMENT OF HON. SUE WILKINS MYRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Ms. Myrick. Thank you.

Mr. Secretary, welcome, and I just want to echo Mr. Upton's comments relative to the doctor payments, and the only other thing I wanted to say is, I really hope that we can look at the Medicare issue in a broader context because we have got to deal with it and we just keep tinkering around the edges, which is going to cost us more in the long run. I am interested to hear what you have to say.

Mr. Dingell. The time of the gentlewoman has expired. The Chair recognizes now the gentleman from Massachusetts, Mr. Markey.

Mr. Markey. I would like to reserve my time.

Mr. Dingell. The gentleman reserves his time. The Chair recognizes now the gentleman from Pennsylvania, Mr. Murphy.

OPENING STATEMENT OF HON. TIM MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. Murphy. Thank you, Mr. Chairman.

As we look at this budget for health and all the areas it encompasses, I know you have continued to push for areas of transparency, and what I still believe in the coming months that can be done that I hope that we can make sure there is adequate funding for a few areas.

Number one, we still face the problem with 90,000 deaths of a year, 2 million cases and $50 billion a year wasted on infections people pick up in the hospitals. We still have perhaps $28 billion or more a year we waste on people having prescription errors and the medication problems that come with that and we can move forward with electronic prescribing. We still have massive amounts of money, as you know, that we waste from not having electronic medical records whereby people have tests done and procedures done that we could bypass.

I hope that you will continue to be highly energized on working on these issues because I believe, as I believe you do, that people have a right to know, and by engaging them with Medicare and Medicaid and every other branch that your department has, that we ought to be changing this. It still puzzles me that people can find out if they are going to leave the airport on time with their airplane but they can't find out if they are going to leave their hospital at all, and we have to change that and people have that right to know.

Thank you.

Mr. Dingell. The Chair recognizes now the distinguished gentleman from Michigan, Mr. Stupak.

OPENING STATEMENT OF HON. BART STUPAK, A REPRESENTATIVE IN

CONGRESS FROM THE STATE OF MICHIGAN

Mr. Stupak. Thank you, Mr. Chairman.

Welcome, Mr. Secretary. The Subcommittee on Oversight and Investigation has held five hearings on food safety in this Congress, most recently our hearing on Tuesday with representatives from the companies that have issued food recalls. Americans have witnessed one food safety disaster after another with 91 recalls over the past 14 months. Each year 76 million Americans will suffer from foodborne illnesses, 325,000 will require hospitalization, and at least 5,000 will die. In fact, during our food safety hearing on Tuesday, FDA announced two more recalls, one on crackers and another on dried fish coming from Asia. The FDA's Science Advisory Board has acknowledged that the FDA's current condition is putting American lives at risk.

I was looking forward to see what the Administration planned to do to fix this fragmented food and drug safety system in its fiscal year 2009 budget. Needless to say, I was disappointed. Unfortunately, I don't believe this Administration is serious about protecting the safety of our food and drug supply.

My time is up, and I look forward to hearing your answers to our questions. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

Mr. Dingell. The Chair thanks the distinguished gentleman. The Chair recognizes my distinguished friend and colleague, Mr. Pitts.

Mr. Pitts. I reserve my time.

Mr. Dingell. The gentleman reserves his time. The Chair recognizes now the distinguished gentleman from New York, Mr. Engel.

OPENING STATEMENT OF HON. ELIOT L. ENGEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Engel. Thank you very much, Mr. Chairman.

I am dissatisfied with the budget. It clearly is intended to achieve cost savings by any means regardless of the damaging health outcomes, but I want to, Mr. Secretary, highlight an issue of very big importance to us in New York but really for the whole country, and that is, following the terrorist attacks on September 11 and the collapse of the World Trade Center towers, hundreds of thousands of people including responders, area residents, workers and students were exposed to toxins, pulverized building materials and other environmental contaminants. These people are suffering, they are dying, and we need a national response.

I am angered that this proposal includes a 77 % funding cut for September 11 healthcare programs from $108 million appropriated for fiscal year 2008 down to $25 million for fiscal year 2009. This is a disgrace. Last month New York delegation members sent a letter to the President asking him to ensure that 9/11 health clinics, which are expected to need more than $200 million this year alone, are fully funded in his fiscal year 2009 budget and I would hope that you could achieve that, Mr. Secretary. We were told by Christie Todd Whitman at

the time that the air was okay to breathe. We were lied to by the government. This is an attack on America, not a New York issue. Every district has people living in it that had first responders and we really need to act, and this budget doesn't do it.

I was there with the President 3 days after September 11 when he had the bullhorn and he said that we would never forget what happened and never forget the people. This budget forgets the people and we need to have money appropriated so that our first responders are not sick and dying and that the government takes care of them, so I would hope that we can talk a little more about that later on. Thank you.

Mr. Dingell. The Chair thanks the gentleman. The Chair recognizes now the distinguished member, Ms. Blackburn.

OPENING STATEMENT OF HON. MARSHA BLACKBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Ms. Blackburn. Thank you, Mr. Chairman, and Mr. Secretary, welcome. We are delighted you are here.

I am looking forward to talking with you and continuing to work with you on a couple of issues: Number one, the trajectory that Medicare and Medicaid spending is on, going from 4\1/2\ % of our GDP to when you look at 2050 and the outlying years the %age, 22 % of the GDP, the Medicare trigger and what we are going to do about that as it is projected to exceed 45 % of general revenue by 2012. That is of tremendous concern to me. I think we need to look at some long-term reforms.

I am also a bit concerned about SCHIP and the $19 billion for expansion there. Of course, you and I have visited many times about our experience in Tennessee. We have learned a lot of lessons there and I hope that those lessons are not lost on us as we look at the SCHIP program and how to properly deliver the services for the intended recipients. But welcome.

Thank you, Mr. Chairman. Thank you for the time and I look forward to continuing the conversations.

Mr. Dingell. The Chair thanks the distinguished gentlewoman. The Chair recognizes now the distinguished gentlewoman from Colorado, Ms. DeGette. Not here? Okay. The Chair recognizes now the distinguished gentlewoman from California, Ms. Capps.

OPENING STATEMENT OF HON. LOIS CAPPS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. Capps. Thank you, Mr. Chairman, and welcome, Mr. Secretary.

I am sad to say this budget reflects a complete disconnect with reality as far as the true healthcare needs of this country are concerned. The priorities are just so wrong. I can only chalk it up to this Administration being a lame duck. I am of course horrified by the proposed cuts to nursing education by 30 % and eliminating children's hospitals' graduate medical education altogether. This budget doesn't hesitate to cut funding from patients, from doctors or nurses but heaven forbid we should stop overpaying Medicare Advantage plans run by companies with multi-billion-dollar profits. With the Medicaid

rules looming over us, how can we fulfill our moral obligation to serve our neediest families with a budget that fails on so many levels?

I am also concerned of course about the need for fixes for the Geographic Practice Cost Index and the flawed Recovery Audit Contractor Program moving forward and the wasteful spending on ineffective abstinence-only education, but the rules only allow me 1 minute and so I will just urge my colleagues to reject this budget proposal and work together to pass a budget that reflects commonsense investments in our Nation's health infrastructure.

Thank you, Mr. Chairman.

Mr. Dingell. The Chair thanks the gentlewoman. The Chair recognizes now the distinguished gentlewoman from California, Ms. Harman.

OPENING STATEMENT OF HON. JANE HARMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. Harman. Thank you, Mr. Chairman.

Secretary Leavitt, we met when you were involved with the Markle Foundation in a major project on homeland security. I know you understand the threats we face from terror attacks including biological attacks like pandemic flu. My district in California surrounds the top terror targets in Los Angeles including LAX, Los Angeles International Airport, and the ports of Los Angeles and Long Beach. The only level I trauma center and the closest hospital, Harbor UCLA, has been cited for overcrowding in its emergency room. Harbor is also a national teaching hospital. In my view, Mr. Secretary, this budget takes us backwards and makes us less safe. It won't cover a surge in mass casualty care. It is a purge in mass casualty care. I look forward to hearing what you have to say about this and hearing how we are going to protect America's communities.

I yield back.

Mr. Dingell. The Chair recognizes now the gentlewoman from California, Ms. Solis.

OPENING STATEMENT OF HON. HILDA L. SOLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. Solis. Thank you, Mr. Chairman.

I too am very concerned about the programs that we are going to see reduced, especially when we are talking about--and I have heard the Secretary this time and again about eliminating healthcare disparities. Again, Latino families that we represent in areas like mine are going to have a hammer to their heads about where they are going to find relief in terms of better healthcare.

I am also disturbed with respect to the August 17th directive. The other day we heard from some of our governors, both Republican and Democrat, who said that they were not in agreement with the new directive that has been placed upon them to try to enroll more low-income children in the SCHIP program without having the ability to actually do outreach and recruitment to get more families involved. I hope you can take a second look at that.

The other part we heard from was the Medicaid citizenship documentation, that it is actually costing more States more money just to implement auditing procedures to go through to find out and potentially weed out people who are not eligible. We found hearing from the governor of Washington State, Mrs. Gregoire, that they only found one person out of over 300 cases that were examined and it cost the State, I think it was $5 million. I mean, that is horrendous. That money could be used for better healthcare services. So I hope you will reexamine that.

The other thing is that I know HIV and AIDS is a continuing epidemic, especially in the Latino community, but more importantly in the territory of Puerto Rico. So I would like to hear what your intentions are there and how we can mitigate those problems.

So thank you, Mr. Chairman, for having this hearing this morning.

Mr. Dingell. The time of the gentlewoman has expired. The Chair recognizes now the distinguished gentlewoman from New Mexico, Ms. Wilson. Does the gentlewoman desire to waive?

Ms. Wilson. Yes.

Mr. Dingell. Her time is waived and she will be recognized later. The Chair recognizes now the distinguished gentleman from Texas, Mr. Gonzalez.

Mr. Gonzalez. I waive opening.

Mr. Dingell. The gentleman waives. The Chair recognizes now the distinguished gentleman from Maryland, Mr. Wynn.

OPENING STATEMENT OF HON. ALBERT R. WYNN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Wynn. Thank you, Mr. Chairman.

Welcome, Mr. Secretary. I want to first join my colleagues in expressing my extreme disappointment with this budget, particularly with respect to SCHIP. In the case of my own State of Maryland, I don't believe the funding level that is in this budget will allow us to maintain our existing programs. It certainly will not allow us to expand and this is compounded by the fact that the President is objecting to any attempt to provide health insurance to families making over $35,000 a year, so basically moderate-income families are not going to be helped by this budget.

Second, I am very concerned about the problem of dental care and the cuts in the dental program. We had a tragedy in my district. This budget doesn't respond to that.

And third, I would note that federally qualified health centers are only increased by 1 %. This is absolutely critical when you consider that one in five citizens in America don't have reliable access to healthcare. Community-based health centers are absolutely critical, and it is unfortunate that this budget doesn't recognize that reality and provide more funding for community-based health centers.

Thank you, Mr. Chairman. I relinquish the balance of my time.

OPENING STATEMENT OF HON. JAN SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Dingell. The Chair thanks the gentleman. The Chair recognizes now the distinguished gentlewoman from Illinois, Ms. Schakowsky.

Ms. Schakowsky. Thank you, Mr. Chairman.

I ask my colleagues to take a look at this budget through the eyes of seniors and children and pregnant women, people with disabilities, hardworking families. People are looking for help so that they can lead healthy and productive lives, and from a fiscal perspective, cost-effective programs with low administrative costs like Medicare and Medicaid are being cut while bureaucratic and costly private insurance are being hyped, and in terms of priorities, more than $10 million an hour for Iraq and cuts in children's health. What you will find are significant cuts in Medicare and Medicaid, the failure to fix the Medicare part D program, eliminate the donut hole, provide for our children through adequate SCHIP funding and a failure to provide needed resources for the NIH, CDC and SAMSA.

Mr. Chairman, it is my hope that this Committee will work to reject these cuts, reject any budget that prioritizes a misguided war and tax cuts for the wealthy over meeting the needs of American families. Thank you, Mr. Chairman.

Mr. Dingell. The time of the gentlewoman has expired. The Chair recognizes now the distinguished gentleman from Georgia, Mr. Barrow.

Mr. Barrow. Thank you, Mr. Chairman. I will waive opening and reserve my time.

Mr. Dingell. The gentleman waives. The Chair recognizes now the distinguished gentleman from Texas, Mr. Green.

OPENING STATEMENT OF HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Green. Thank you, Mr. Chairman, and I want to welcome the Secretary here, and we are trying to go through as quickly as we can so your time is valuable like everyone else's. But I have to say, I am concerned because over the past 8 years the Administration has continued to make cuts in HHS budget. The trend of the Administration has been to cut funding for programs that need the support such as SCHIP and Medicaid to fund costly programs that aren't necessarily working. Unfortunately, this year's budget is no different than previous years. It is disheartening, to say the least.

The budget abandons the most vulnerable members of our population, children and the elderly. Don't let the Administration fool you. This budget is not the solution to healthcare issues we are facing on our way to balance our budget. In my opinion, the budget focuses on across-the-board reductions in the most needed programs over continued funding the Administration's projects such as privatize healthcare and shifts costs to the States. In fact, a GAO report released today found that the private Medicare plans such as Medicare Advantage cost beneficiaries more than traditional Medicare yet the Administration continues to push the low-income population to privatized health plans that cost more, deliver less and continuing the trend of passing on costs to the States and the taxpayers.

I and many of my colleagues disagree with the Administration's budget request for LIHEAP. This is not the time to cut another 22 % out of this vital program which serves at-risk households with senior citizens and disabled Americans and the very young children. With sufficiently funded LIHEAP, we can save lives in Texas and across the Nation. LIHEAP's funding shortfall is so serious that in my own State we reach just 6 % of the eligible families. LIHEAP reform needs to be permanent and not episodic.

This budget does nothing to reduce the number of insured children. In Texas, 1.5 million children are uninsured. This budget proposes a slight increase in funding to SCHIP. However, it offsets that increase by forcing States to take more of the costs of SCHIP which really is no increase at all and does nothing to reach the number of uninsured children in my State. Not only that, the budget reduces funding for physicians for the children's graduate medical education program. The child population is rising and the elderly need more healthcare but this budget wants to reduce the number of pediatricians, pediatric specialists, and again SCHIP. So where do we expect our children to receive healthcare?

I would like to discuss all the shortcomings but my time is short. If we continue to underfund programs like Medicare and Medicaid and SCHIP, we are going to have a terrible burden and leave one heck of a mess for future generations.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Green follows:]

Statement of Hon. Gene Green

Thank you, Mr. Chairman, for holding this hearing today on the HHS budget. I'd like to welcome Secretary Leavitt to the committee and thank him for appearing before us today.

Over the past 8 years the Administration has continuously made cuts to the HHS budget. The trend of this Administration has been to cut funding for the programs that need the support like SCHIP and Medicaid to fund costly programs that aren't necessarily working.

Unfortunately, this year's budget is no different than in previous years, which is disheartening to say the least. This budget abandons the most vulnerable members of our population: children and the elderly.

Don't let the Administration fool you- this budget is not the solution to the health care issues we are facing or a way to balance the budget.

In my opinion, this budget focuses on across the board reductions in the most needed programs only to continue overfunding the Administration's pet projects, push privatized health care, and shift costs to the States.

In fact, a GAO report released today, found that Private Medicare Plans such as Medicare Advantage cost beneficiaries more than traditional Medicare. Yet, the Administration continues to push the low income population to privatized health plans that cost more, deliver less, and continuing the trend of passing on costs to the States and taxpayers.

I and many of my colleagues disagree with the Administration's budget request for LIHEAP. This is not the

time to cut another 22% out of this vital program, which serves at-risk households with senior citizens, disabled Americans and very young children.

When sufficiently funded, LIHEAP can save lives in Texas and across our nation. LIHEAP's funding shortfall is so serious, that in my State, we can reach just six % of eligible families. LIHEAP reform needs to be permanent--not episodic.

This budget does nothing to reduce the number of uninsured children. In Texas, 1.5 million children are uninsured. This budget proposes a slight increase in funding to SCHIP; however it offsets that increase by forcing States take on more of the costs of SCHIP, which is really no increase at all and does nothing to reduce the number of uninsured children in my state.

Not only that, but the budget reduces funding for physicians and for the Children's Graduate Medical Education program. The child population is rising and inevitably they will need medical care, but this budget wants to reduce the number of pediatricians, pediatric specialists, and SCHIP. Just where do we expect our children to receive medical care and from whom?

I would like to discuss all of the shortcomings of the HHS budget, but my time is limited so I will conclude with this point. If we continue to underfund programs like Medicare, Medicaid, and SCHIP we are going to leave a terrible burden and one heck of a mess for future generations to clean up and that just isn't fair.

Thank you Mr. Chairman, I yield back my time.

Mr. Dingell. The time of the gentleman has expired. Are there other members desiring recognition at this time? The Chair hears none.

Mr. Secretary, thank you for being with us. We recognize you and will hear such statement as you choose to give.

STATEMENT OF THE HON. MICHAEL O. LEAVITT, SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary Leavitt. Thank you, Mr. Chairman. You are always gracious and fair, despite our occasional disagreements. In the spirit of short opening statements, I will just summarize the statement that has been provided to the members.

This budget will recognize four basic objectives. The first one of course is carrying out our crucial mission of helping those in our country in hardship but it does recognize the need for us to balance the budget and focuses intensely on doing so by 2012. A third objective is to make the entitlements upon which so many in our country rely sustainable and also making certain that premiums that are charged to those who are beneficiaries are affordable.

My opening statement expresses grave concern about Medicare and Medicaid, and I do not suffer the illusion that this budget will be received with enthusiasm by many, but I hope they will receive it as a warning because at some point in time decisions like those made in this budget will have to be made by someone, no matter what party is in control. This has to be dealt with, and I express in my opening statement the view that at the

heart of the problem is a system that is essentially planned and priced at a government price setting. I believe that we would be far better if we could begin to move toward a system where we reward value and not volume, and I hope we will have a chance to talk about that, Mr. Chairman.

In the spirit of briefness, I will leave it at that and look forward to interacting with you and other members of the Committee.

[The prepared statement of Mr. Leavitt follows:]

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[GRAPHIC] [TIFF OMITTED] T9472.010

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Mr. Dingell. Mr. Secretary, thank you. I am going to be asking most of these questions to get a yes or no answer simply because there is so little time here and we want to respect your time and the time of the other members. So Mr. Secretary, isn't it correct that the President's fiscal year 2009 budget targets traditional Medicare providers with cuts of $576 billion over 10 years?

Secretary Leavitt. The 5-year number is the one I am more familiar with. It is $183 billion, so I don't have a 10-year number.

Mr. Dingell. We will hold the record open so that if that statement is incorrect, you may correct me on that.

Secretary Leavitt. Mr. Chairman, may I acknowledge that when we use the word ``cuts,'' we both mean it is a reduction in the growth rate. We are reducing the growth from 7.2 % down to 5 %. Medicare will grow during that period by more than 5 % but we are in fact proposing a reduction in the growth rate.

Mr. Dingell. Now, Mr. Secretary, the budget does absolutely nothing to reduce Medicare overpayments to Medicare Advantage insurance plans or the HMOs. That is true, is it not?

Secretary Leavitt. Mr. Chairman, Medicare Advantage was designed to do three things. One was to establish the option and choice among people on a----

Mr. Dingell. No, but it does nothing to cut back on those payments to that particular category of recipient?

Secretary Leavitt. None of our reductions really focus on beneficiaries. They do focus on----

Mr. Dingell. I am talking about Medicare Advantage plans. They continue to receive no cuts and they cut their payment at exactly the same level, yes or no?

Secretary Leavitt. As we both understand, the design on Medicare Advantage is slightly different and----

Mr. Dingell. Mr. Secretary, with all respect and great affection, I have got limited time.

Secretary Leavitt. I always feel your affection, Mr. Chairman.

Mr. Waxman. In a limited way.

Mr. Dingell. Mr. Secretary, the commission which is authorized by Congress to do an independent review of Medicare payment rates, MEDPAC, now tells us that we are paying these HMOs 113 % of traditional Medicare for every beneficiary who enrolls. Is that true or false?

Secretary Leavitt. The Congress has in fact authorized a different reimbursement arrangement.

Mr. Dingell. And in some instances, that average is exceeded by some of those being paid 130 % of costs. Is that correct?

Secretary Leavitt. That is not a familiar number to me. I am aware that there is a differential in reimbursement but the number I have is less than that.

Mr. Dingell. Now, the Congressional Budget Office advises us that these overpayments will cost Medicare over the next 5 years alone $54 billion. Is that correct?

Secretary Leavitt. I have not seen that report. I read about it this morning but I have yet to receive a copy of it.

Mr. Dingell. Now, today Mr. Secretary, we will be releasing a new report from the Government Accounting Office which sheds light on these HMOs and how they are spending these overpayments. The title of the report is ``Medicare Advantage: Increased spending relative to Medicare fee for service may not always reduce beneficiary out-of-pocket costs.'' I would note that according to GAO, nearly a third of the beneficiaries enrolled in these Medicare HMOs find that the plans spend more than 15 % of the Medicare payments on overhead, administration and profits. Is that true or false?

Secretary Leavitt. Again, I have not seen that study.

Mr. Dingell. Mr. Secretary, proponents of the excess spending at Medicare HMOs have said that these plans are important because they provide seniors with extra benefits. Now, are you aware that according to GAO, this report says that ``relatively little of the overpayments are being spent on extra benefits.''

Secretary Leavitt. Again, I have not seen the report. Our information is that about 80 % of them are being spent on additional benefits.

Mr. Dingell. And in point of fact, Mr. Secretary, the GAO found that the plans spent only 11 % of extra payments on extra benefits for seniors. The plans charge beneficiaries increased premiums to finance extra benefits so in spite of the fact that the plans are getting overpayments, they are still charging beneficiaries for extra benefits that Medicare has paid for. Is that true?

Secretary Leavitt. Again, our information is that 80 % of it is being spent on extra benefits. I do have the view that there are things that can be done to Medicare Advantage that would expand the competitiveness of it and would I believe improve it, but I think it is a very good thing in general and it has been successful in the way that Congress designed it.

Mr. Dingell. Now, Mr. Secretary, it is a fact, I believe, that according to GAO, one in five beneficiaries is in an HMO that charges more than Medicare fee for service for home health services and roughly one in six beneficiaries is in a plan that charges more than Medicare for hospital service. This means to me that beneficiaries who are in poor health find that the plans wind up costing them more than if they were in regular Medicare. Is that statement true or false?

Secretary Leavitt. Well, it would be contrary to what we have found. It has been wildly popular among beneficiaries, particularly those in low-income areas and those in ethnic communities, ethnically diverse communities.

Mr. Dingell. Mr. Secretary, are you aware also that according to GAO, the plans did reduce beneficiary cost sharing. One-third of that reduction was financed by additional beneficiary premiums. So essentially what these plans are doing is shifting costs, making more profits and seeing to it that the beneficiaries pay additional premiums for the benefits that they achieve. Is that statement true or false?

Secretary Leavitt. I have not seen the study. As far as I know, it hasn't even been released. I have heard that it will be released today but I do not have a--I have not had a chance to review it. Therefore, it is difficult for me to respond.

Mr. Dingell. Mr. Secretary, with all affection and all respect for you, and I think you are a fine public servant I grieve that you and I differ on this, I find that what we have been afflicted here with is that our government is quite frankly paying fat cats in the HMO and insurance business excessive profits and benefits and quite frankly cutting back significantly on services and benefits to recipients of these programs. I think this is unconscionable. I regret that we have this disagreement on it. My time is expired.

The Chair recognizes now my good friend and colleague, Mr. Upton, for 5 minutes.

Mr. Upton. Thank you, Mr. Chairman.

Again, Mr. Secretary, welcome to the Committee. As you know, in my opening statement I referenced the Medicare physician pay fix. As you know, it expires--the current temporary stopgap expires July 1, and if we fail to do anything, we are going to see a 10 % reduction, which as you must know is pretty unpalatable on both sides of the aisle, let alone in the physician community, as well as the patient community. We received quite a bit of letters from all sides on this. Where do we need to go? July 1 is not that far away. Pitchers and catchers are already reporting. The first preseason games are this week, and that will be about the All Star break in Major League Baseball so we are really pretty close. What should we be doing and where is the Administration? If we come up with just a temporary fix extended through the end of the fiscal year, stick something into a CR later on. What is the Administration's view as to the billions of dollars

that will be in additional spending just to come up with a stopgap which takes us through the end of the year?

Secretary Leavitt. I will give you my own view. The system in fact----

Mr. Upton. OMB is not here. They are not watching.

Secretary Leavitt. They are always watching. This system is a figment of a government-regulated price-controlled system that will always oversubsidize the wrong things and that will routinely underpay the right things, and until we wrestle with that fact, we are going to continue to have this dilemma. One option that many will advocate, particularly in the medical family, will be that Congress write a check for a couple of hundred billion dollars and just solve this. I would suggest to you that that would potentially be a short-run solution but it is a long-term disaster. We have to fix this system, and part of the solution needs to be a system that will begin to recognize value and not just volume. Whenever we begin to ratchet down the payments, whether it is 10 % or 1 %, miraculously what happens is, we end up seeing more procedures. So in a system like this where we reward volume, we are just going to get more volume and we need to begin looking at what I refer to as the four cornerstones of a value-based competition system where people have electronic medical records, where we can gather information, where we have quality measures, where people know what the quality of their care is, what the price of it is so that people can begin to deal with healthcare in a way that will give them a sense of what their value is, not just how much volume----

Mr. Upton. We have had some incentives in past years as related to the IT industry. Is that not right, with electronic records? Wasn't that part of some of the solution?

Secretary Leavitt. Well, we are making progress but we need to move even more aggressively as a Nation. In the 1 minute, 51 seconds we have left, I would love to tell you a little bit about that but I recognize you may have other questions. Let me just suffice to say we are making serious progress and we need to make more.

Mr. Upton. Well, thank you. It is an issue that I think this Committee and subcommittees need to deal with. I was pleased to see that the budget did include $66 million for the Office of National Coordinating for Health IT. Where are we in developing additional standards to give healthcare providers more confidence in implementing electronic health record systems and electronic prescribing systems probably along the lines of what the VA is already doing?

Secretary Leavitt. Let me say that 3 years ago, there were no standards for electronic medical records that would make them interoperable so we could weave our healthcare sector into a system. I am happy to report to you, Congressman, that we now have 75 % of the medical records systems for practices that are being sold with what is known now as the CCHIT certification. It is a seal of approval that says if you buy a system like this, you are on a pathway to interoperability. The standards didn't exist 3 years ago. They now exist. We have a system in place and we are making progress.

As to e-prescribing, may I say the time has come. We need to begin to insist that physicians and their practices adopt e-

prescribing. The money is--there is money savings. There are lives that will be saved by it. It is just time. I would suggest in June when we do deal with the SGR that we look at allowing Medicare the capacity to reimburse physicians at the highest possible rate when they use e-prescribing. It is when we begin to use that kind of incentive that we will see e-prescribing and its savings and its health benefits fully realized.

Mr. Upton. I appreciate your being here, and my time is expired. I yield back.

Thank you, Mr. Chairman.

Mr. Dingell. The time of the gentleman has expired. The Chair recognizes now the distinguished gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

Mr. Secretary, I have to say it is incredible to me--I want to talk about these Medicaid rules that are going into effect, and we had a Health Subcommittee hearing 2 days ago and we have governors here in the aftermath of the governors conference, both Democrat and Republican, and all we heard from those governors was that these Medicaid rules, in effect the cuts that would come out of them, you know, we have had several over the years and we have more that were just announced a couple weeks ago, that they are going to cause real and profound harm to covered services and access for the country's most vulnerable populations, whether it was the disabilities community or it was the graduate medical education or was the increased co-pays from one of the rules that we announced a couple weeks ago, how is it that--I mean, you were a governor. How is it that your former colleagues who run these programs are so concerned about these cuts that would come from the Medicaid rules but yet you and the Department dismisses them? I mean, I know you were a governor at one time. I think you supported--you know, you expressed some of those same concerns with the cuts in the Medicaid program when you were governor. I mean, it just seems there is a total disconnect here and I just--if you would just explain that. I mean, it would seem to me you probably should get the governors together before you even put some of these rules out and talk to them about it and what the impact would be. Does the Department even do that?

Secretary Leavitt. Mr. Pallone, I appreciate a chance to respond to this. As you point out, there is probably no one in this room who understands better the different perspectives that governors and the Federal Government might have on this, having served in that role myself for 11 years. Medicaid is a partnership between the Federal Government and the States. It is a partnership where both are expected to contribute, and if I could just characterize these in unvarnished terms, I think what we have right now is a dispute between partners.

Let me describe for you how I think that dispute comes about. There are seven ways in which we believe, I believe that the States are using ambiguities in our regulations to unfairly increase the amount of the share that the Federal Government is paying in our partnership.

Mr. Pallone. But Governor, I don't want to stop you. I want you to continue, but, you know, one of the things that Chairman Dingell and I and other members of the subcommittee have

advocated is increasing enhanced payments for Medicaid, you know, an FMAP proposal which was actually utilized the last time we had a recession or economic downturn, and the governors all said they were in favor of that and I believe you were in favor of that, you know, a few years ago when we had an economic downturn and we actually did an FMAP increase to the States. I mean, I understand there is this--you are the Federal Government, they are the States now, but I mean, you know, why not do something like that to help the States out?

Secretary Leavitt. Well----

Mr. Pallone. I mean, the Administration has been opposed to it. Do you oppose that?

Secretary Leavitt. What we support and what I support is a partnership where both sides are putting out what they agreed to, and I would like to just acknowledge that I believe this is being driven primarily by the fact that there are contingent-fee consultants who go from State to State looking for any breadth of ambiguity and they have absolutely no incentive but to push and push and push and to drive and drive and drive on the basis that anything the Federal Government can pay is good.

Mr. Pallone. But the problem is, we have an economic downturn now, Mr. Secretary, and, you know, in my own State the governor just announced a freeze on spending, literally a freeze, not even taking into account inflation. I mean, I understand what you are saying. I am not disagreeing that there may be some problems there but we are going in the exact--the Administration is going in the exact opposite direction of where the country is going. There is an economic downturn. There is more need for Medicaid, for SCHIP. We have talked as Democrats and Republicans with this bill that I mentioned about giving more enhanced match to the States and the Bush Administration wants to cut back. I mean, even if what you are saying is true, that there are these ambiguities, the fact of the matter is that right now the States are hurting and people need the Medicaid program. So I would think that right now you would say okay, maybe there are these ambiguities but we have got a problem here that is just unique to the times and let us not make it even more difficult for States to operate.

Secretary Leavitt. If that is the case, it is a decision that Congress ought to make. It is our view that this is--that they are exploiting in ways that are unfair ambiguities that in most cases don't exist, and I can give you lots of examples, and I believe it is my responsibility to maintain the integrity of this program to push back and to make certain that they are putting up their part of it. Now, again, I have been a governor, I understand, but when you get into this, we find out that there are--that many of the things we are trying to--most everything we are trying to close has no medical relevance. This is different programs like education and other parts of State government trying to put a tap into the vein of Medicaid in order to supplement State budgets, and if the Congress decides that they are going to assist States in this way, fine. However, I don't believe it ought to be done with contingent-fee consultants who exploit ambiguities and then benefit from it by pushing and pushing and pushing with no resistance. I believe this is good management, and it is important to the balance of the partnership that we have. If we are going to be

partners, let us be partners. You put up your share, States, and we will put up ours. Now, again, I have been in this position.

Mr. Pallone. Well, I know my time is expired. Thank you, Mr. Chairman.

Mr. Dingell. The time of the gentleman has expired. The Chair recognizes now the gentleman from Nebraska, Mr. Terry, for 6 minutes.

Mr. Terry. Thank you, Mr. Chairman. I appreciate it.

I just basically have two questions. The first one is going to be on our Medicare part D, an issue that has arisen in my district when I have suggested that people who are hitting the gap between the basic and catastrophic coverage, which is called the donut hole, that very limited number of opportunities of buying coverage in that it is basically all generic if you can even find one. Has there been any discussion in the agency about ways to provide incentives or what we can do to make sure that there is more, a wider variety of gap coverage opportunities?

Secretary Leavitt. Congressman, others would likely be able to respond to that better than I at CMS but I will tell you that it is my impression that some kind of quote, donut hole or gap coverage, is available in nearly every State. It is more expensive if you want brand-name drugs but the fact that it exists in every State and that you can buy it I think is an important advance and I think one of the reasons that 86 % of the people who have a Medicare Advantage plan are happy with it. Now, we probably ought to get more detail on that----

Mr. Terry. Yes, in Nebraska right now, there is not an opportunity to buy one that has name brand in it, and I have been hearing that that is occurring in other States now and that is--this is the first year that that has happened and so I just want to put it on your radar screen because I think that is an issue that we may have to deal with, and if we can get your input.

Let me shift gears then to what you and I usually discuss, and that is electronic medical records. Your agency has developed a pilot program that I think is probably in about 1 year around the country and I just wanted to get an update from you how those are going, what we are learning in the pilot programs on electronic medical records. I know it is in its infancy but are there any initial lessons that we are learning from those?

Secretary Leavitt. Let me give you a 2-minute report or less. First, we have made substantial progress on creating standards for interoperability, which is a fundamental basic requirement of a system of electronic medical records. We created what is known as CCHIT. It is a seal of approval. It is now driving the market. It is a 3-year certification but we update it every year and a number of providers decided they would wait until the third year. Well, the market suddenly started moving to those who were updating annually and now most everyone is beginning to update annually. In other words, we now have a process that is driving the market towards interoperability. I will tell you that I think our biggest challenge still is the fact that we have a mismatch in the market, particularly among small- and medium-size physician

practices. The mismatch is, they make the investment. Most of the benefit comes from the--goes to consumers and/or the payers. We are looking to learn how we can manage that and the macroeconomics shift. We have just announced a Medicare pilot wherein 12 medical markets around the country, we will appoint up to 100 small- and medium-sized practices. It will cover 1,200 practices in total. We expect that we will see 3.6 million patients covered under it. In addition to that, we are working hard right now, and I will be myself in 40 different cities over the course of a 3-month period to meet with the medical family where we are asking them to take efforts that they are currently using to define quality and begin to standardize and harmonize the way we are measuring quality.

I like to point to four different things that have to happen for our medical system to emerge. The first is medical records. The second is measures of quality. The third is price groupings where people, ordinary people can have buckets of care, they can compare and make a judgment as to value. And then the last is finding ways to assure that everyone has a motivation to increase quality and cut costs, and that system is beginning to emerge, and the root of it of course has to be electronic medical records, and I am happy to report to you we are making substantial progress.

Mr. Terry. The 12 cities, did you say, that you are doing a consortium----

Secretary Leavitt. We refer to them as communities. It could be a State or it could be a city or it could be a metropolitan market. We have got some that are applying that we think will--and the way it works, it is very simple. The first year we are going to compensate them if they have a CCHIT system a little bit more on their Medicare payments. In the second year, we are going to compensate them more if they will use that system to report quality data. The third, fourth and fifth year, we will pay them more if they can demonstrate that they are in fact producing quality outcomes for their patients. This is a means by which we can begin to demonstrate a way to share the benefit of electronic medical records among not just the payers and not just the consumers but with the physicians. Until we can see that macroeconomic shift occur, it is difficulty to persuade a small- or medium-sized physician practice that they ought to make that investment.

Now, another very important thing I have already spoken of, and that is the need for e-prescribing to become the standard. We have e-prescribing technology in most pharmacies. It is now the--we now need to get down to the hard business of just making the sociology shift. It is not the technology here that limits us, it is the sociology, and I believe it is time for Congress to say and allow Medicare to say if you want to be reimbursed at the highest level, you need to use e-prescribing. We have seen this happen in almost every other instance, and if someone would like to ask me another question, I have got some more to say about that.

Mr. Terry. Thank you.

Mr. Dingell. The time of the gentleman has expired. The Chair recognizes now the distinguished gentleman from California, Mr. Waxman, for 5 minutes.

Mr. Waxman. Thank you, Mr. Chairman.

Secretary Leavitt, I want to follow up on these Medicaid proposals. You indicated that there are problems and that Congress ought to decide the issue but you haven't recommended to Congress to make changes. You haven't identified the problems and said make the appropriate programmatic changes in the statute. The Administration is proposing to put into effect these new rules without intervention from Congress.

Secondly, I want to indicate to you that when our Oversight Committee had a hearing on this issue, the gentleman from CMS could not tell us what the consequences would be if these changes were put into place for the States. Now, this is a partnership, a federal and State partnership, and as you indicated, both sides are supposed to put in their share to make the partnership work. Well, the Federal Government now is saying we are not going to put in the full amount that we put in in the past, and I might indicate that what we put in the past was put in to the States to use under Democratic and Republican administrations. The National Governors Association on a bipartisan basis has asked us to reject these Medicaid proposals. We at our committee are trying to find out what they cost, what the impact will be on the States since the Administration can't even give us those figures. I can't imagine a partnership where one side says we are going to put the burden on you at a time when there is a recession but we don't even know what the consequences are going to be. That isn't the integrity of the program. That is lack of integrity and concern about what the impact will be on the beneficiaries. So we sent out a letter to the individual Medicaid directors of the States and asked them to tell us what the financial impact will be on them. We are putting together a report. We are going to release it next Monday but I am going to get it to you in advance because I want you to look it over and evaluate what they are saying. I want you to see what the impact will be as they describe it, and if they are right, I hope you will reconsider these series of regulations.

The other thing I want to indicate to you is that California, for example, told us the regulations combined would result in a $10.7 billion loss of federal Medicaid funds over the next 5 years. That is just California. It is a big State. But when you look at it in Los Angeles, which is not only my district but one of the major cities in this country where millions of people come every year as tourists, people expect those who live there and those who visit that if there were a terroristic attack or some terrible accident that the healthcare system would be able to deal with an emergency. Well, I am going to give you a letter. I think we have already given you a letter from Bruce Chernoff, the chief medical officer of L.A. County, and he wrote that like many local governments that operate hospitals, L.A. County is facing serious financial pressures that are already destabilizing the emergency rooms. Emergency rooms have been closing. Hospitals have been closing. With these further cuts in the federal Medicaid budget, it is going to mean even a greater problem on a safety net to deal with any emergencies, so I want you to look at that as well.

In the few moments I have remaining, I do want to indicate to you my concern about the FDA cuts, in no small part due to

your leadership in food safety. We are going to try to address these problems that are on the minds of our constituents about food safety, but as I look at it, the Administration is talking about a $42 million increase for overall food safety, but when you look at the FDA inflation rate of 5.8 % and with FDA's unique needs for maintaining high-caliber scientific staff and facilities, so 5.8 % and the $42 million you tout as an increase, there is not much left over. In fact, our people look at it and say there is only going to be $2 million left. How is the agency going to be able to do more in the area of food safety if--I know the cuts are on the increases for inflation but after that there is not much of an increase to do the additional work, and if they are pretty much using the same amount as last year, it didn't cut it last year and it is not going to cut it for next year. How do you respond to that?

Secretary Leavitt. Congressman, as you indicate, I have made a substantial investment in this issue personally and feel deeply that FDA has a role to play. I will tell you that I worked hard for that $42 million and felt good about it in the context of a budget clearly intended to balance the budget by 2012. There are substantial demands on FDA. We have to think about this in a different way. We have got to be smarter. I believe the $42 million is an important step forward. May I say that we have added 1,000 people at FDA over the course of the last 2 years? There is a limit to the speed with which we can accomplish the mission that I am anxious to see accomplished. It never happens fast enough for me but I believe the budget is an important step forward.

Mr. Waxman. Thank you.

Mr. Dingell. The time of the gentleman has expired. The Chair recognizes now the distinguished gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. Barton. They may be 5 imperial minutes, you know, 5 Speaker minutes or something like that. No, I am just teasing. I apologize, Mr. Chairman, and I apologize, Mr. Secretary, for not being here at 9:30. For some reason I thought this started at 10:00 and if I got here by 10:15 I would be on time. So Mr. Dingell started apparently right at 9:30, which is to his benefit.

It is good to have you here. I know it is kind of contentious and I haven't listened to too many of the questions but my guess is, the Majority has been castigating you for various foul deeds or not doing as much as you should, and hopefully us in the Minority have been at least patting you on the back every now and then before we kick you in the pants.

My question to you, as you well know, under the current Medicare law, when the expenditures of the trust fund begin to exceed a certain percentage in terms of general revenue being spent on Medicare, it has a trigger that requires the President to report to the Congress that fact and to present a plan to get the general revenue share of Medicare back below, I believe it is 45 %. You sent us a letter last week or the week before last because the Medicare trigger has been triggered 2 years in a row. What part of that--the part of the program about health IT, I think Title I, would seem to me to be something that we could actually do. Would you care to elaborate on that?

Secretary Leavitt. Thank you. I would be pleased to. First,

let me say that I think this is a very important warning. While remedying the warning does not fix Medicare's problems, I fear that Medicare warnings have become like the blooming of the cherry blossoms in the spring. We just hear them and we don't pay much attention to them. We need to start paying attention. This is a serious problem and we need to focus on it. Title I essentially lays out a pathway where we could begin to reimburse on the basis of value, not volume, where we could begin to see some consumer and competition in Medicare that we believe would drive quality up and costs down. It essentially recognizes four needs we have in order to have our medical sector now become woven into a medical system, and that would be electronic medical records, the capacity to measure quality, the ability to compare practice and incentives where everybody gains if they increase quality and decrease cost. Title I of that trigger would essentially lay out benchmarks that would hasten the day when that market system could exist.

Mr. Barton. On Medicaid, as part of Medicaid budget reconciliation several years ago, at the request of bipartisan taskforce of governors, we put more flexibility for States to use their Medicaid funds. There is apparently a move afoot to prevent that flexibility being utilized. Would you care to comment about that?

Secretary Leavitt. Well, we had a brief conversation between Mr. Waxman and also Mr. Pallone and I about Medicaid. I was a governor for 11 years. I found the flexibility to be extraordinarily helpful. I think one thing you can count on--two things you can count on from the States. One is that they will use flexibility and innovation, and the second is, they will do everything they can to get the Federal Government to pay every bit of it.

Mr. Barton. But Democrat governors want flexibility too. It is not just Republican governors.

Secretary Leavitt. A very important point about this relationship, a very important point, is that the partnership and disputes that happen in the partnership are not between Republican and Democrat governors. They pretty well agree on two things: innovation and flexibility are good, and the more you can get the Federal Government to pay is good. The dispute is between partners. The partners are the Federal Government and the State governments and we do have a series of ongoing disputes where we believe that the States are in fact using ambiguities to try and drive their ethic of getting--and no one can blame them for doing anything else. But somebody has got to stand up and say if we are going to have integrity in our partnership, we need to deal with this, and you asked me more about flexibility but I wanted to talk a little bit about who the partnership is between and where the disputes are.

Mr. Barton. And finally, I want to compliment you and the President for funding the common fund at the NIH. The NIH reorganization reform bill that we passed last year or the year before last I think is one of the more significant reform packages that the Congress has done in the last 20 years, and a big part of that reform was a common fund where various NIH researchers would compete for funds across various departments, and that has been funded. I wish you all had funded NIH a little bit more but you did fund the common fund, so I

appreciate that.

Last, Mr. Dingell and myself and Mr. Stupak and Mr. Shimkus have sent you a letter, and I would assume you have read it, about a request for information that so far you and the President have refused to give to the Committee. You are not claiming executive privilege or anything. I would certainly encourage you to look at the letter we sent you. We are trying--to his credit, Chairman Dingell, and Chairman Stupak, are trying to find a way to accommodate some of the concerns that you and the President have announced, but Mr. Shimkus and myself are just as committed as Mr. Dingell and Mr. Stupak to getting information that is important to the Committee and to the people for some ongoing investigations at the FDA, and I don't want to have to stand up on the Floor and support a contempt citation for you or the President. I don't want to do that, but if I have to, I will. So I would encourage you to get with your general counsel, read the letter. We have sent, I think, a good-faith effort to try to find a way to accommodate the legitimate needs of the Administration but also the legitimate needs of the Congress, and it is just not a fun thing when we start having to file contempt of Congress resolutions on the Floor of the House. So if you need to talk off camera about that to me any time, I would like you to do that, but I believe you have got until the end of this afternoon to comply with that letter.

Secretary Leavitt. Mr. Barton, let me say that I share your view on how little fun is involved in anything related to such a citation, and I also want to acknowledge the important role of investigation and oversight, and we want to be both respectful and cooperative and I feel--I did receive the letter this morning and I have had a chance to review it briefly, and as I mentioned to Mr. Stupak, we will work with this and I feel optimistic we can resolve it. This is the type of dispute that existed for centuries in our government and we want to work cooperatively to resolve it.

Mr. Barton. Okay. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

Mr. Dingell. The time of the distinguished gentleman has expired. The Chair recognizes now the distinguished gentleman from Massachusetts, Mr. Markey, for 6 minutes.

Mr. Markey. Thank you, Mr. Chairman.

Welcome, Mr. Secretary.

Secretary Leavitt. Thank you.

Mr. Markey. Mr. Secretary, the NIH budget in its capacity to actually purchase more research capacity has actually declined 13 % since 2003, and the President keeps talking about the National Institutes of Health and the research that they do in the most positive of terms. In order to keep the NIH spending just level with last year, it will require a 3.5 % increase in the NIH budget for the 2009 fiscal year. Do you support a 3.5 % increase in the NIH budget just to keep it even with this year's spending ability?

Secretary Leavitt. Mr. Markey, I am going to tell you I feel very good about the fact that we did achieve level funding. I fought hard for that in a competitive budget. I would also just acknowledge one other thing. We all want more money for medical research. When you look at this budget, not

just the Administration, when you look at the situation, the money for medical research is going one place and that is to healthcare costs. If we begin to focus on Medicare, making it sustainable and starting to turn that growth rate down, it is going to create more opportunity for medical research. So while I recognize that we would all be prepared to sign up for more if we had more, level funding was a good outcome in this budget and I am anxious to----

Mr. Markey. So you do support a 3.5 % increase?

Secretary Leavitt. I support the President's budget, which brings it even with the 2008 budget. Now, would we like to have more? Of course we would, but we are focused on balancing the budget by 2012, and I am admitting to you I felt pretty good about the outcome because I fought hard for it.

Mr. Markey. Now, we are going to in this Committee be moving health IT legislation in the relatively near future. Chairman Dingell, Chairman Pallone, Mr. Barton and I, we feel very strongly about privacy issues and the role which they play in this new modern era as medical research are taken out of doctors' and nurses' cabinets and they are put online. So we are going to consider provisions here, protections which are central to the protection of the most intimate secrets of American families. So my first question to you is, would you support that individuals are notified if their personal information within a health IT system is or is believed to have been exposed to unauthorized users such as cases of a breach of the system's security?

Secretary Leavitt. Mr. Markey, I believe that patients should control their medical records.

Mr. Markey. So if their information is compromised, do you think they should be notified that the information has been compromised?

Secretary Leavitt. I want to be careful on commenting on specific provisions of bills that I have yet to see, but let me just--I think I can be responsive to your question in this way. I believe that the consumer, the patient ought to both have access to their medical data in a way that is convenient to them. I also believe that no data should be shared with others if in fact it is not done with the permission of the patient.

Mr. Markey. Okay. So you agree then, if I may, that patients should be able to decide for themselves before their most personal information, their medical records are put into the electronic databases and health systems, that they should have to get--that their permission should be obtained before it is put into that database?

Secretary Leavitt. I believe that medical practices have the right and the need to have electronic medical records for their own clinical uses. However----

Mr. Markey. Are you saying even without the permission of a patient, they should be able to put it into an electronic database?

Secretary Leavitt. I do not believe a patient's information should be sharable with anyone without the patient's permission.

Mr. Markey. So you are saying that--just so I can follow, you are saying that their records should be able to be placed inside the electronic record even without the permission of the

patient but that once it is inside the electronic record that no information can be disclosed for specific purposes once the patient is inside the system without getting the permission of the patient?

Secretary Leavitt. Mr. Markey, you and I both understand, A, the importance of this, and B, the sensitivity of it, and I am reluctant to respond to a series of do-you-believes without understanding the context, and I am not being--I am not resisting the conversation. I just want to state in as clear a principle as I can what I believe. Now, I believe that there is a need for patients to control their data. Now, whether or not there is an opt-in or opt-out, I haven't given that enough thought to be responsive to it but I believe in the context that you are placing this, we are agreeing that consumers, patients should have control of their data and that no data should be shared with others without their permission.

Mr. Markey. And one final question. Despite the efforts by the--thank you for that answer. Despite the efforts by the CDC, the White House removed the following statement from a statement that Julie Gerbeting was making about climate change, and here is the statement: ``The CDC considers climate change a serious threat.'' That was deleted from her testimony. Do you believe it is a serious threat, and if it is a serious threat, what is HHS doing in the public health sector in terms of climate change?

Secretary Leavitt. As you know, I headed the Environmental Protection Agency prior to being here and I came to understand the importance and the sensitivity of this issue and I came to understand very clearly that the atmosphere of the Earth is in fact--the temperature is increasing and I think it is clear that man has had some impact on that and that we are now sorting through exactly how to respond to it. In the 36 seconds that we have left, I don't think I am going to be able to lay out a full policy position of the Administration but it is clear that anything that causes the spread of disease is of importance in the health community.

Mr. Markey. Thank you.

Thank you, Mr. Chairman.

Mr. Dingell. The time of the gentleman has expired. The Chair recognizes--oh, before I do. Mr. Secretary, the sound system in this place is not very good. Would you pull it closer to you, please, because your comments are very important and--
--

Secretary Leavitt. Thank you. Oh, I can hear myself now and you can hear me too.

Mr. Dingell. I think it is important for you to hear yourself but it is even more important we hear you.

Secretary Leavitt. You never know when I might disagree with myself, so that is good.

Mr. Dingell. I will you, Mr. Secretary, in the midst of a campaign, I get pretty tired of listening to myself.

The Chair recognizes now the distinguished gentleman from Illinois, Mr. Shimkus, for 6 minutes.

Mr. Shimkus. Thank you, Mr. Chairman, and thank you, Mr. Secretary, for being present. I am going to try to go through these pretty quick.

The welcome to Medicare physical exam--you know, I am a big

believer in wellness, preventative care. I think it helps the livelihood of individuals. You identify illnesses early, plus it is a huge cost savings to be preventative versus dealing with catastrophic failures. The utilization of this program is low. What do you attribute this to and what can we do to up the utilization of the welcome to Medicare physical?

Secretary Leavitt. I don't think people know about it. We have a campaign on right now to expand people's knowledge of the benefits that were offered under the Medicare Modernization Act. People tend to think about that as the prescription drug benefit but there were a whole series of screening and the welcome to Medicare physical. We have a bus tour that is going around the country. We have public service announcements. We have lots of different things that are going into correspondence with Medicare beneficiaries, and so I will just concur with you that there is great value and I hope people will hear and use them.

Mr. Shimkus. Let me follow up with two other issues that are similar. Gene Green and I worked on the AAA bill, the abdominal aortic aneurysm, the prescreening for this. Same premise, lower utilization. You know, what can you tell me about the utilization on that program, and it just kind of segues into the same point. What are we doing budgetarily as far as education for both these programs?

Secretary Leavitt. I am not able to respond at that level of granularity on the budget or on the utilization factors. It is something I would be happy to respond to you in writing if you would like, but as you point out, it is the same principle. Part of the modernization of Medicare was to recognize that it is prevention, prevention, prevention, that every dollar we put into prevention we get a big payback in terms of less utilization and we get people who are healthier and that is after all the goal of Medicare and that is healthier Americans.

Mr. Shimkus. And I hesitate to move in this direction because we have had discussions before on the Medicaid AMP provisions. It is my contention along with a lot of my colleagues and some independent observers that we don't pay full costs or we don't pay costs to the physicians who are doing the Medicare, especially generic drugs, delivering that service to the seniors. You have before disagreed with that assumption, I think, and I would just use this opportunity to give you another chance to disagree and then tell me why.

Secretary Leavitt. Well, now that the microphone is fixed, I won't be disagreeing with myself. My position remains the same, Congressman. We think the plan is working. We think there are negotiations that take place between plans and pharmacies and physicians, and I mentioned earlier in a related area that I am very anxious to see us begin to use e-prescribing and that we could potentially begin to utilize that as a method of being able to change that equation if it isn't working for others, but I don't have the concern that you expressed.

Mr. Shimkus. Let me move forward to FDA extraterritorial jurisdiction. Can we get your assistance to work on legislation to kind of address this concern that is coming up through the Committee?

Secretary Leavitt. I think this is a legitimate question and one that I would like to work on with you. We are seeing

more and more of the goods we consume, particularly food and medicines, coming from outside the country, and if people violate the laws of our country or theirs, we obviously have the sovereignty issues that have to be dealt with but we can also move rapidly to cut off access to American consumers, and we should. This is a big concern to me. I recently returned from India where I had a chance to see as many as 80--I didn't see them but I was told that there were between 80 and 100 facilities that are generating vaccines and medicines for American consumption. We need to have a bigger presence there. We need to begin to recognize that that part of our world is changing and that we need a means of being able to rapidly respond when goods or medicines or devices come into this country that don't meet American standards. We need to send a very clear and unambiguous signal to the world that if you want to produce for American consumers, you have to meet our standards.

Mr. Shimkus. And I can't speak for the chairman or the Majority but I think your assistance in working through this on the health and safety and the welfare of our citizens would be well received and hopefully would allow us to move something in a compromised fashion that would help us reach those goals.

Let me also move quickly to, the Minority staff issued a report on debarred individuals and our concern that actions not be taken aggressively to keep debarred individuals from being involved in some of the processes. Would you consider posting each of these lists? There are two separate lists. We found, you know, one from HHS, one from--one on the FDA, one in the CMS. Marion Illinois is a veteran hospital in my district in which because of the lack of information they hire doctors who are having issues in other States, and it affected the health, welfare and safety of individuals being served in Marion. Our concern is if there is no clear transparency on the debarred aspect of these folks, we need to help clear that out. I think it was a great work by the Minority staff and we would like your help in doing that.

Secretary Leavitt. Thank you. I can't respond on the specifics because frankly this is a new idea to me, but I will tell you at a principle level, I firmly believe in transparency and that people ought to know if those who are producing drugs, those who are producing vaccines, those who are producing devices have done so in a way that does not meet our standards, people ought to know that. So on principle I am prepared to work on the specifics. I just need to have more information.

Mr. Shimkus. Thank you, Mr. Chairman.

Mr. Dingell. The time of the gentleman has expired. The Chair thanks the gentleman. The Chair recognizes now the gentlewoman from California, Ms. Eshoo, for 6 minutes.

Ms. Eshoo. Thank you, Mr. Chairman, and welcome, Mr. Secretary, and thank you for being here.

I just would like to make an observation, having listened to members' questions and statements and your responses. It seems to me that we all love our history once it has been made. We celebrate it, say isn't it extraordinary that at a given time in our country we took steps that would not only place us and our country in a real leadership position but then celebrate the outcomes of that. But we seldom I think have a

deep appreciation that we are making history, and I think that is where we are with this budget. I think we are writing the wrong history for our country. At the beginning of this century, the 21st century, where science, technology, biotechnology and all of that is merging and America is on the threshold of not only merging these disciplines but supporting them and investing in them. I think it is a sad statement that the budget is making and I don't think that is Republican or Democrat. I think that the opportunity to do that and seize the opportunity to do that is so critical, and the budget doesn't reflect that. It doesn't reflect that. And so I think that we stand to lose as a country in merging these disciplines and investing in them. In fact, FDA Commissioner von Eschenbach told the Wall Street Journal yesterday that he needs more funding for his agency than what the President has responded to. So with all due respect to you, when you say, you know, I support that and I am for it, but there aren't dollars in the budget and they actually reflect a decrease, I think that is a really serious issue for our country.

Now, having said that, you noted that there is a $66 million investment in the Office of the National Coordination for HIT. I support your commitment to it, the dollars for it. The Commonwealth Fund reported last year that the economy could save nearly $90 billion in healthcare costs over the next decade if in fact we have widespread adoption of HIT. As you know, several organizations are supporting this issue including AARP, the Business Roundtable, SEIU, and they are calling for enactment of HIT legislation this year. We have sent over, Congressman Mike Rogers and myself, the legislation, the bipartisan legislation that we have put together and you have heard that the Committee may soon consider legislating this area. We want you to look at that legislation. We want to work with you on it, and I am just going to assume that you will work with us on it.

On the issue of TB funding, tuberculosis funding, there is a real shortfall there. In Santa Clara County in my district, which is the whole Silicon Valley, there is unfortunately a real serious uptick of TB cases. They don't have the funds to address that so we want to work with you on what the Department can do. I am just pointing it out. But I think that is serious. I mean, how can it be that the home of Silicon Valley has more cases of TB reported and we don't have the funding for it? It just doesn't square off and it is serious.

Now, I want to ask you something about SCHIP. In what I think are impossible requirements that the Department has set down, it includes the requirement that States have to first enroll 95 % of their children with families earning less than 200 % of poverty in these programs. Does any State in the union currently meet these standards out of 50 States? Who does?

Secretary Leavitt. Let me just--there are a couple of things you--let met just answer your first question and there a couple of things you talked about I would like to respond to.

Ms. Eshoo. Well, I would like you to answer this one first. I mean, the others are more observations.

Secretary Leavitt. We believe there are several who can and CMS----

Ms. Eshoo. No, but are there any States----

Secretary Leavitt. I don't know the answer----

Ms. Eshoo [continuing]. That meet the requirement?

Secretary Leavitt [continuing]. To that. CMS would need to respond to that.

Ms. Eshoo. Okay. We will get the answer from you on that.

Of the States that have enacted or have considered programs, you know, to reduce the number of uninsured, has the Department assessed the impact the August 17th guidance has on those States?

Secretary Leavitt. Well, we feel confident it has caused people to focus on those----

Ms. Eshoo. No, but I mean, have you actually assessed the impact on States? I mean, you have set down today that this is a partnership and while you are saying there are some ambiguities and have not requested anything from us, it seems to me that the Department has the responsibility in an unbiased way to study the impacts. That is why I am asking.

Secretary Leavitt. Well, we think the ambiguities that we are speaking of are clearly defined in the law----

Ms. Eshoo. Ambiguities are clear?

Secretary Leavitt. Let me be more specific. For example, many States receive an additional payment for public hospitals. They are now appointing a lot of hospitals as public hospitals that really aren't public hospitals and then they are taking that extra payment and they are putting it into the general fund----

Ms. Eshoo. Well, it seems to me, Mr. Secretary, that you having been a governor, now you are the Secretary, that before we get into the weeds with what is working, what isn't working, that there are some prior values in this, and that is the care of the people that are in your charge and my charge. That is the greatest and highest value of all. I think that these guidances that have been issued are really punitive. You know, I said, I think it was earlier this week, to whomever was here, if children were testifying on the next panel, they would say what did we do to you that you are doing this to us where, you know, children are going to be denied healthcare coverage, you know, for a year before they can enroll. I mean, where does that come from? Does that spring out of an ambiguity?

Secretary Leavitt. No. We are in the business, all of us collectively, of choosing priorities and we believe that those who are under 200 % should have our first priority, and the August 17th----

Ms. Eshoo. But you are forcing children who don't have insurance to wait a full year in order to get it. Is that an ambiguity? I mean, what does that come from?

Secretary Leavitt. No child who doesn't have insurance who is under 200 % has to wait at all. We want to focus on those who are truly--who are in the lowest income categories before we start using money to help people cancel private insurance to have public insurance.

Ms. Eshoo. Well, I think we have a deep disagreement on this, but in these other areas I hope that you can work with us. I think that we can make progress on HIT. It will make a huge impact in our country, and thank you for being here today.

Secretary Leavitt. Thank you.

Ms. DeGette [presiding]. The Chair recognizes the gentleman

from Pennsylvania for 5 minutes.

Mr. Murphy. Thank you, Madam Chairman.

Mr. Secretary, some of the issues you have been speaking out today are some reform issues and I am a believer that we need to fix the system, not just finance it, but starting off, I believe there was something in the news the other day about Medicare costs are going to continue to climb. They are at that point now where they are exceeding half of tax revenues. Is that generally close to where we are?

Secretary Leavitt. In time as they continue to go up, they will consume all revenues. But Medicare now has exceeded 45 % of its budget coming from revenues for the second year in a row.

Mr. Murphy. So it continues to climb. Now, let us take a couple of these points you talked about today, for example, the costs to Medicare alone for prescription drug errors. I am assuming what you believe is that some of that can be fixed if we use electronic prescribing where it can automatically check the physician's prescription for the right doses, the spelling, all those things, that would save some money. Do we have any idea how much money that would save if we had these programs using electronic prescribing?

Secretary Leavitt. I have seen figures public. I do not have recall of those. But one thing we do know and I think we can unequivocally agree, it will save money and lives. The technology is there and it is time.

Mr. Murphy. Probably in the billions?

Secretary Leavitt. Oh, it is probably closer to the hundreds of billions over time.

Mr. Murphy. Okay. And with regard to eliminating nosocomial infections in hospitals, I know there have been some moves to say hospitals will stop paying for those, but when you list all them out, MRSA being that superbug, the killer, but also pneumonia, which many times people don't even realize you may get that from being in a hospital too long, urinary tract infections from having catheters in too long, do we have any idea of how much money is wasted in paying for these preventable illnesses and if we could stop that what we could save?

Secretary Leavitt. Again, the number is not on the top of my head but we do know that it would save a lot and frankly it just violates common sense for hospitals to be paid for events that shouldn't have occurred.

Mr. Murphy. Let me expand that also to disease management for chronic illnesses. I know some actions have taken place there, and the majority of healthcare dollars are spent on chronic illnesses and many of those for people with very complex cases, heart disease, diabetes, cancer, people don't live a long time but very complex, many doctors, many treatments. Are we moving forward in a direction here that is also saving money and do we anticipate we can continue to save money if we do this right?

Secretary Leavitt. Well, this is the sweet spot because we know 75 % of all of expenditures come from chronic diseases which are both their nature both preventative and manageable, and this is the place where the use of quality measures, by the use of electronic medical records, eliminating medical mistakes

that can come in the context of the treatment of chronic diseases clearly saves money, a lot of money, and I don't have the figure but this is exactly the kind of discussion we need to be having.

Mr. Murphy. Well, then here is the trillion-dollar question, because we don't have that number here, because the way that Congress is designed, we can't get numbers on prevention and cost savings. Although CDC has told us it is $50 billion wasted on nosocomial diseases and 90 million lives, 2 million cases, and even though they said that probably $28 billion a year is wasted on prescription errors with Medicare and the 75 % with chronic illness, maybe you can have more luck with finding someone who can actually give us some numbers because the way I see this, as a government what we oftentimes try and do is say well, we are spending too much so let us pay people less. Now, we are told the cost of a loaf of bread is going to climb quite a bit not only because of the cost of wheat but also the cost of transporting it, energy costs. I can't imagine people being told as they go to the grocery store well, even though a loaf of bread is going to jump from a $1.50 to $3, we are just going to--we are not going to do anything about that. I mean, we find ways. We have to find ways. We have to find ways, and this too I just see, instead of us just saying let us pay doctors less and hospitals less, what can we do to make these fundamental changes and fix this system, not just finance it.

Secretary Leavitt. Congressman, you have heard me say many times that I don't believe we have a healthcare system, what we have is a healthcare sector, and until we are able to organize it into a system, we won't be able to capture that, and the four things I mentioned a couple of times, electronic medical records, quality measures, price comparisons and structuring it so that everyone has a motivation to save money and to have higher quality, we won't see those. Now, as you said, there are many of those things that Congress doesn't choose to score. However, there are discernible savings and I am working right now on being able to determine what a reasonable person could expect or a reasonable society could expect over time once those are put into place.

Mr. Murphy. Well, as we go back and forth on the budget that you are requesting, I hope that is something we can come together on that instead of necessarily making just cuts but looking at some real ways of saving lives and saving money so we don't have to be spending so much. It is out of control in the health sector and too many people are dying from it. Just in the 5 minutes that I have been speaking, another person has died from an infection they picked up from a hospital and it unconscionable to me that we are still not doing anything about it. But I thank you so much because I know you are really committed to transparency and a patient's right to know about these things, so thank you for that.

Secretary Leavitt. Thank you.

Ms. DeGette. The Chair recognizes the gentleman from Michigan for 5 minutes.

Mr. Stupak. I thank the gentlewoman.

Mr. Secretary, as Mr. Barton said, the concern we have over the subpoena, I did speak with you earlier. You indicated we

would have this thing resolved and hopefully have it resolved by close of business tomorrow. That is what the letter says and we want to get this thing resolved. Both Democrats and Republicans want to see it resolved and hopefully our offices and work together and get this thing resolved.

Let me ask you this question. You mentioned one of four issues that you think we can improve and help balance budgets, especially your budget, is through electronic medical records. Last year when you were here, Mr. Whitfield asked you about the NASPR program, a program both him and I and Mr. Pallone and others have supported that would save us money, and you said, and I quote, ``It is a program we support. It is a program we would gladly administer.'' However, you also said, ``It is the decision that was made at OMB last year not to fund it.'' So this year did you make a recommendation to OMB to fund NASPR for the 2009 budget?

Secretary Leavitt. The first part of my statement still stands. We do support the program. We would be happy to administer it. Last year I did in fact make a request. OMB decided otherwise. This year we did not based on their decision last year.

Mr. Stupak. Because they didn't fund it last year, you felt they wouldn't fund it this year?

Secretary Leavitt. Well, I think isn't this a program that is either between us or----

Mr. Stupak. Well, you never funded it last year and this year and actually we had a hearing on October 7 in which your staff, Dr. Wesley Clark, indicated that you strongly support it, it would save money, it is electronic, it cuts down on prescription duplications and deaths. So if it is one of your four tenets, why don't you support the program?

Secretary Leavitt. Well, as I understand it, it was funded or proposed to be funded through the Department of Justice's budget, not ours, and the issue is one of jurisdiction between committees and----

Mr. Stupak. But it is authorized under HHS, not under the Department of Justice.

Secretary Leavitt. I can't reconcile that.

Mr. Stupak. The Department of Justice has a Bell Rogers program, not NASPR. NASPR is found strictly in your budget, in our appropriations authorization, I should say.

Secretary Leavitt. Congressman, I can't reconcile this for you. All I can tell you is that yes, we would support it. Our impression was we were supporting--that the Administration was supporting something very similar in the Department of Justice's program, or budget----

Mr. Stupak. Our hearing on October 7, 2007, showed that a completely different program. One is extensive, the other one is not. One is all-inclusive, the other one is not. You know, we keep hearing you support it but no one will ever ask for the money or fund it.

Secretary Leavitt. We did last year but it was an issue we didn't revisit.

Mr. Stupak. Well, since we are talking about budget, the Administration states in its budget, this year's budget, that it is providing a net level increase of $130 million. Is that correct?

Secretary Leavitt. To?

Mr. Stupak. A $130 million increase in your budget for FDA.

Secretary Leavitt. Oh, for FDA?

Mr. Stupak. Yes.

Secretary Leavitt. Yes, that is true.

Mr. Stupak. Okay. Of that $130 million though, $79 million is estimated to be collected through user fees. This is money that must go directly into dedicated programs such as the Prescription Drug User Fee Act and the Medical Device User Fee Act authorized by Congress and this Committee. Is that correct?

Secretary Leavitt. I believe that is right.

Mr. Stupak. So if you subtract the $79 million from the $130 million, you really only have $51 million of new money for FDA programs. Is that correct?

Secretary Leavitt. Whether or not coming from user fees or appropriated funds, they are still available to the FDA.

Mr. Stupak. No, if it is coming from user fees, it must go to those programs. It cannot be used for other purposes in the FDA. So the new money for the FDA is actually $51 million when you back out the user fee money.

Secretary Leavitt. Well, I don't want to argue over definitions but I would say that user fees are a different source of funds but they clearly go to the FDA for an FDA purpose.

Mr. Stupak. For Prescription Drug User Fee Act and Medical Device User Fee Act to approve drugs faster and to approve medical devices faster. It doesn't go towards----

Secretary Leavitt. The FDA----

Mr. Stupak. As you testified earlier, when you were in India, all these other drugs, active pharmaceutical ingredients coming from other areas because the Science Board just 2 days ago said $51 million isn't going to make it; in fact, the FDA budget should be $375 million increase, 7 times more than what you are recommending. So how do you account for this disparity, $51 million versus $375 million your Science Board says you need?

Secretary Leavitt. Well, I don't--I am not here to defend the Science Board's suggestion of our budget. I am here to defend the President's budget. I will tell you that like the Congresswoman said, FDA requested more money. That would be true of almost any agency or department in the Federal Government but part of making budgets is the process of going through and determining where the priorities will be and how much will be given to each. Now, we have added at the FDA 1,000 people over the last 2 years. We have a strategic plan that will begin to change the way we think about things. I think we have had a chance to talk about that as I have with Mr. Waxman and also Mr. Dingell. Clearly, it is going to require more money, and I fought awfully hard to get the $42 million into food safety and the additional money for FDA and I felt good about it in the context of this budget.

Mr. Stupak. But how do you do it when you said in your statement about India 80 different firms exporting active pharmaceutical ingredients here to the United States and you said they must meet our standards or they can't come in. We don't know where those 80 plants are. We don't know what they are exporting that we saw with heparin from China, and more and

more are coming from overseas and we are inspecting those plants, according to our investigations and your own FDA, every 40 to 50 years but yet we inspect pharmaceutical plants here in the United States every 2 to 3 years. You are encouraging people to go offshore. They are not going to be inspected. They can send garbage in because we don't have the inspectors and people are dying as in the heparin. You can't even tell us if that plant that made the heparin was ever even inspected. The FDA says we think we had the wrong address. That is not an excuse. Four people died, hundreds or more injured because of this drug and we don't even know if we inspected it.

Secretary Leavitt. Madam Chairman, do you mind if I just take 1 minute to respond to this?

Ms. DeGette. Mr. Secretary, please be brief.

Secretary Leavitt. Okay. Our plan calls for us to start having U.S. presence in other countries. We started last year and moving forward to an office in China. We will get our first foothold here this year and I think expand next year. I am suggesting, I believe we need to start the same process in India and that needs to be contemplated in future budgets. Now, adding 1,000 people in 2 years, that is serious progress. Changing the nature of the way we look at these problems, that is--it doesn't happen fast enough for me but nevertheless, we are moving toward the right direction and we are going to take a very clear position that if people want to make products for American consumers, they need to meet our standards.

Mr. Stupak. The Science Board says you need $375----

Ms. DeGette. No, I am sorry, Mr. Stupak.

Mr. Stupak [continuing]. Million, you bring $51 million. It doesn't look like you are serious about addressing the problem. That is our concern.

Ms. DeGette. I am sorry. Your time is expired.

Mr. Stupak. I realize that. Thank you.

Ms. DeGette. And the Chair will announce that there are three votes on the Floor and there are 8 minutes remaining in the vote on the Floor. At the conclusion of the three votes, Mr. Secretary, we will reconvene for members who want to ask their questions. So I would ask members to come directly back from the Floor, and I will recognize the gentlelady from New Mexico for 6 minutes.

Ms. Wilson. Thank you, Madam Chair.

There are two issues that I would like to address before we break for questions. One is the Urban Indian Healthcare Program. Your budget has proposed to eliminate it for the past 2 years and this will be the third year in a row when you do so. The Congress has not gone along with that. It is a fairly small program, $35 million. The Indian Health Service only earmarks 1 % of its $3.5 billion budget for urban Indian programs and yet 75 % of Indians live in urban areas. In the city of Albuquerque, it is about 50,000 people. Your department continues to propose that those folks be cared for by community health centers and yet the community health centers say they do not have the capacity to be able to absorb the increase in patient loads in the communities where we have high numbers of urban Indians. Why do you continue to propose to close this program when there is no alternative for the Indians who are being served there?

Secretary Leavitt. If there is not a suitable alternative at a community health center, then we need to bolster the effort of the community health center. It just doesn't make sense to us to have two separate systems in metropolitan areas to serve populations. It does make sense to us to have a separate system in Indian tribal nations and on reservations where there isn't an alternative but where we have the alternative we think we ought to consolidate those efforts. You are right, we proposed it 2 years ago and it wasn't accepted and last year and it wasn't but we do again this year because we just think it makes sense.

Ms. Wilson. Where do you see the efficiencies? Why do you want it shipped over to a community health center that--I mean, we have multiple community health centers in Albuquerque and two that are particular to Indian healthcare. Why do you think that it costs less money to shift them over to the community health centers and shift around these boxes?

Secretary Leavitt. I think we ought to all recognize that when you have two systems, there is duplication, and we think the quality of both systems--I mean of the one system could be enhanced for both populations.

Ms. Wilson. That assumes that you have a system and what you have is multiple community health centers, but we are going to have to deal with this again. I think your people need to come up and talk to us and show us where you think you are going to save money and where you are going to serve the people who need to be served because I haven't seen a proposal from you on it that will work.

The second issue has to do with recovery audit contracts. They were supposed to go into effect. I understand they have done several States already and they are having problems. They are kind of set up as a bounty payment to go after possible overpayments. You talked about going after value and not volume, and I am very concerned that these kind of bounty hunter folks who are going out to look for audits and problems in billing are going to have a disproportionate impact on small providers in rural areas where there is--people make mistakes. It is not as though this is a simple system to navigate through, and I wonder if you would comment on where we are on that.

Secretary Leavitt. The private contractors were used in three States that included California. They recovered over $400 million, mostly from hospitals. California objected to the process. CMS is now negotiating with California. The program has been modified and Congress agreed to expand the recovery of audit to all 50 States. We think it is an effective way for us to recovery taxpayer funds when they have been improperly expended.

Ms. Wilson. It is supposed to start in March in New Mexico and the contractor hasn't been chosen. Do you have any update on what is going to happen?

Secretary Leavitt. I do not.

Ms. Wilson. Thank you, Madam Chair. I yield back the balance of my time.

Ms. DeGette. The gentlelady yields back.

Mr. Secretary, we will recess until the conclusion of the third vote and then we will be back.

[Recess.]

Ms. DeGette. The Committee will come to order.

The Chair will recognize herself for 5 minutes.

Mr. Secretary, thank you for being with us this morning and for staying through these votes. I just want to ask you about a couple of issues and then one issue I would like to have your department get some more information because I know that you won't have the information at your fingertips. The Administration's budget cuts almost $1 billion for HRSA, which is the principle agency charged with increasing access to basic healthcare for the medically underserved. It eliminates funding for training physicians at children's hospitals, which my children's hospital is very concerned about, for $301 million. It cuts nursing workforce development including the Advanced Education Nursing Program and it also cuts the National Health Service Corps by $2.52 million. So my question to you is, if we have some kind of a bioterror incident or a pandemic or other kind of health emergency, I am quite concerned and other members of this Committee are that the public health workforce could be overwhelmed. But with these deep cuts to our training programs, I am wondering what this will do to the capacity of our public health workforce to respond to an emergency.

Secretary Leavitt. One of the things that you mentioned that I want to make a specific reference to is the children's hospitals.

Ms. DeGette. Yes.

Secretary Leavitt. Years ago children's hospitals were in very serious peril and the Congress appropriately stepped forward and gave them a special allocation of graduate medical education funds. Since that time hospitals have been righted. The task has been accomplished and we believe that those are now duplication of the normal graduate medical education process. Now, I will tell you that I think the entire graduate medical education system should be thought through but that is the reason behind our reduction.

Ms. DeGette. So I can--not to put words in your mouth. What you are saying about these specific cuts is that it is the view of the Administration that either those areas are duplicitous or that they are no longer needed? Would that be a fair----

Secretary Leavitt. The original purpose of that stream of funding has been accomplished. Now, of course what happens is that when----

Ms. DeGette. I have a couple of other questions. I am sorry. One of the things in the President's budget that you folks have done is eliminated some programs like the prevention block grant and health professions programs and as justification the President said the programs are not based on evidence-based practices and in another case the evaluation found those activities do not have a demonstrated impact. It kind of goes along with what you were just saying, and I agree with that. One of my pet peeves is government just layering on duplicitous program after duplicitous program, but as I think about that philosophy for budget, I am wondering why the President and the Department doesn't apply these same effectiveness standards to the abstinence-only sex education programs, because in the President's budget there is a proposed increase of $28 million to these programs but study after study

including a 10-year study that just came out in April 2007 from you folks found there is no evidence that abstinence programs implemented in upper elementary and middle schools are effective in reducing the rate of teen sexual activity and the main objective of Title V, section 510, abstinence education programs, is to teach abstinence from sexual activity outside of marriage. The impact--I am quoting from the results--``The impact results from the four selected programs show no impact on the rates of sexual activity,'' and in fact last year for the first year in many years the rate of teen pregnancy did not go down in this country. So my question is, what is the rationale for cutting programs like the children's hospitals and the workforce development and all this but increasing abstinence-only sex education funding by $28 million?

Secretary Leavitt. Madam Chair, it has been my observation, as I suspect it has yours, that when studies like that come out, everyone tends to interpret it according to whatever view they generally have, and I believe this is one of those. As we have reviewed that study, essentially what it says isn't that it doesn't work, it is that it is not distinguishable necessarily from the effect of other----

Ms. DeGette. Well, actually that is not true, Mr. Secretary, and if you look at all of the other independent studies, they haven't shown that abstinence-only sex education works.

Secretary Leavitt. What this study and I believe others indicate is that in their mind they could not distinguish its effectiveness----

Ms. DeGette. So you think the abstinence--you have reviewed it and you think the abstinence-only sex education programs work about the same as the abstinence-based sex education?

Secretary Leavitt. And we also believe there is something----

Ms. DeGette. Is that a yes?

Secretary Leavitt. We believe as the study does that they can have effectiveness but there are things we can do to improve them.

Ms. DeGette. So that is what you are trying to do now is improve the abstinence-only?

Secretary Leavitt. Well, we certainly believe that it is an important part of a sex education approach. We advocate it. We are budgeting more money for it and we also believe that----

Ms. DeGette. Not to interrupt you, I am sorry. I am out of time.

Secretary Leavitt. Yes, you are.

Ms. DeGette. But I am wondering if there is someone from your office who you could have speak to my staff about the improvements that you guys think you can make to make these abstinence-only programs work.

Secretary Leavitt. Yes, I think that is a fair statement. With the time constraint, that might be a more efficient way.

Ms. DeGette. Thank you very much. Just one last question. This is the one that I know you won't have an answer to but I really would like a response. As you know, I worked on the embryonic stem cell legislation and I kind of got involved in thinking about some of these programs, and I found out that the Department has appropriated $10 million for this snowflake baby

or the frozen embryo adoption program since 2002. Now, 295 children have been born using this so-called embryo adoption, and I guess what I would like to know, if you think is a good use of money, if this fulfills the public health agenda, and how much money is in this year's budget for the embryo adoption and also how much money is in this year's budget for encouraging adoptions of, say, the 114,000 children in the United States who are already born who are waiting for adoption. Now, I don't want to get into an argument with you but this was one thing as sort of a budget hawk that really leapt out and struck me as well.

Secretary Leavitt. Your assumption that I wouldn't have information today that would respond to your query is right but it is a legitimate question of importance and we will be responsive to you.

Ms. DeGette. Thank you. I would appreciate it, Mr. Secretary, if we could have a response from your agency, say, by March 15. Would that be agreeable?

Secretary Leavitt. Why don't I reference it and I will put a priority on it? I am not in a position at this point to--I don't know the complexity of the research you are asking for. I would like to--I will certainly respond by the 15th. Whether or not we have everything that you ask for is something I need to look at.

Ms. DeGette. Thank you very much, and at this time I would like to recognize the gentlelady from North Carolina for 5 minutes.

Ms. Myrick. Thank you. I appreciate it.

I wanted to ask you about the budget for mental health, and forgive me if while I was gone it was already asked. I know there is a reduction of, I think, $126 million for SAMSA this year in the President's budget, but my question is broader than that. Really what I am concerned about of course is access and really getting this right for the people who desperately need it, which is a lot of underserved population and, you know, it is kind of near and dear to my heart just from family issues that we have dealt with. So can you just give me a broader view of what the mission is and what you want to accomplish in the mental health area?

Secretary Leavitt. It is very important first to acknowledge that the Federal Government pays in excess of 45 % of all mental health funds. Second, I would just also acknowledge that there is a need for us to resolve the issues regarding mental health and health insurance and there is moving through Congress right now bills that the Administration has spoken in favor of on mental health parity. So between our efforts to resolve those issues and also our continued funding through Medicare and Medicaid and other places where we pay about 45 % of all funding, we continue to make an effort and know it is an important area. I have had a special education in the last year and the President asked that I take a very deep look at the Virginia Tech shootings, and I went to 13 different communities where these kind of tragic events have occurred.

Ms. Myrick. Right.

Secretary Leavitt. Last weekend I attended the memorial service at Northern Illinois University where again we have seen the manifestations of some of these dilemmas. So it is

something we will obviously keep working on and have a high interest in.

Ms. Myrick. What about the relationship with the States? Because I know naturally the States pretty much control what they do with programming but a lot of them are having big problems in getting it right and making sure the services are delivered. Do you have any way that you work with them or, I mean, are they pretty much on their own?

Secretary Leavitt. The biggest way we work with them is of course through Medicaid where I mentioned but also through SAMSA. Most of what we--most of the funds that we receive in SAMSA are delegated to the States in the form of grants and other programs and we do have an ongoing dialog. In fact, two years ago we put forward a matrix approach to the management of mental health, which has become a centerpiece not just for Federal Government and States but across the mental health community and how we approach and manage it.

Ms. Myrick. Is it something you work with the governors on as well? I mean, is that another issue that you work with them?

Secretary Leavitt. Well, it is with the State of course----

Ms. Myrick. That is what I mean.

Secretary Leavitt [continuing]. Along a plethora of issues that I deal with the governors on, that is one.

Ms. Myrick. Well, you know, we see over and over again, and this is not your fault in any way. I mean, my thing is to figure out what is going to work so the person who needs the help can get it, and yes, the mental health parity bill is a part of that. I happen to support the Senate bill and not the House bill because I don't like mandates but the bottom line is, something should pass which will be helpful to people but the access problem and the way the systems are working at most of the local levels and all, it seems to be a real challenge today in people getting the help that they need. There is a lot of confusion and misdiagnosis and all that kind of stuff out there.

Secretary Leavitt. Could I just mention one lesson that I learned after going to as many communities as I did and sitting down with the mental health community and with the education community and the law enforcement community and asking the question what should we be learning from these kinds of incidents? One of the lessons that became evident to me was that 25 years ago or 30 years ago we began to change our strategy based on the availability of new medications. Rather than have people in institutions, we began to deinstitutionalize and move people toward community care settings. We were very successful in deinstitutionalizing. We have not yet fully developed our community delivery system.

Ms. Myrick. There is no question. They are on the street and good homes are a problem and you can't get them in communities and there is not money for them and all that kind of thing.

Secretary Leavitt. If I were to look for an area of investment, from my own view, that would be it. Now, we supplement that through SAMSA but it is also a place, as you point out, that the States and local communities need to be focused, and one of the second lessons we learned is that we are very slow to share information that is perfectly

appropriate to share. There are lots of places under HIPAA that information can and should be shared that people don't because they are afraid.

Ms. Myrick. Well, with the shootings, that is part of the challenge you have there too because those people all had previous records and some way that could have gotten help maybe before if somebody had known about it. Anyway, I would be glad to work with you any way I can on that. Thank you for your answers.

Ms. DeGette. The Chair recognizes the gentleman from New York, Mr. Engel, for 5 minutes.

Ms. Engel. Thank you, Madam Chair.

Mr. Secretary, I want to talk to you a lot about 9/11 but since the gentlewoman from North Carolina, Ms. Myrick, just spoke, I just wanted to briefly call your attention to a bill that the gentlewoman and I are sponsoring, which is a very strong bipartisan bill. We are really troubled by a lot of the damaging Medicaid regulations put forward by CMS with regard to public and teaching hospitals and we are asking for--our bill puts a moratorium for a year on these regulations being implemented. We hope our bill passes but it could simply--if you simply rescinded some of these regulations, there would really be no need for our bill. The Congressional Joint Economic Committee issued a study finding that Medicaid and the State Children's Health Insurance Program enrollment and the number of uninsured will rise over the next several months as a result of the current economic downturn and so I would just appeal to you to consider rescinding or postponing some of these regulations. The Joint Economic Committee specifically called upon the Administration to delay or cancel these proposed regulations that shift Medicaid costs to the States, so I am wondering if you could briefly tell me that you would consider rescinding this. It is again bipartisan. It hurts the States and we really would ask you to consider postponing it or rescinding it.

Secretary Leavitt. Congressman, I understand your view. I expressed earlier, and I know you have a question so I won't let it go too long except to say we feel that the regulations are appropriate for reasons if you would like to take more time I would be happy to respond to but we likely will not be withdrawing those and I want to be straightforward about that.

Mr. Engel. Then let me also say before I get to the 9/11 things that I am very troubled by the budget slashing Medicaid and Medicare funding, particularly for teaching hospitals. Representing New York, our teaching hospitals train one in seven doctors nationwide and it is very, very troubling. This budget is very harsh in its treatment of teaching hospitals. The budget also slashes Medicare and Medicaid funding by $200 billion over 5 years and we estimate in New York our hospitals and health systems will lose $1 billion in 2009 and $10 billion over the next 5 years. It is really very, very troubling, but I will follow up with you on these things.

September 11, I mentioned it in my opening statement. This budget proposal increases a 77 % funding cut for 9/11 healthcare programs from $108 million, which isn't adequate in itself, from fiscal year 2008, down to $25 million for fiscal year 2009. I would implore you to please consider at the very

minimum restoring that to the level of the 2008 budget to $108 million. We are not talking about lots of money here, and September 11 obviously is a tragedy for the country, not only for New York. We have our first responders who ran there, people who went there day after day trying to save lives are now dying. Some have already died or are sick for the rest of their lives. We are told that this impacts virtually every district across the country and it is unconscionable that the Federal Government is slashing funding and doesn't have a better response. We have a bipartisan bill sponsored by the whole New York delegation, Mrs. Maloney, Mr. Natham, Mr. Fossella on the Republican side, and we really think that we really need to step up with this. So I am wondering if you could comment on that, if you would consider restoring the money?

Secretary Leavitt. Congressman, lest you would interpret that $25 million addition as being a lessening in our commitment, I want to disabuse that point. We currently have $175 million in unused appropriation that is available for the treatment of those authorized under the law, and our budget was put forward on the basis that we want to make certain there is adequate money to meet the demand, and at the point that there is more demand, then we will obviously be open to more appropriation.

Mr. Engel. Mr. Secretary, would you agree to meet with some of us in the New York delegation to discuss this, to have a meeting to discuss this? I think it would be very helpful if we could go back and forth on this important issue of 9/11 first responders funding for health reasons.

Secretary Leavitt. I am always available to have conversations that can lead to a positive conclusion. I do want to emphasize though that our commitment is there but we didn't feel the need to additional dollars, given the $175 million that currently resides in the funds that are available.

Mr. Engel. So you will meet with us where we can discuss these issues?

Secretary Leavitt. If it becomes important to meet with the delegation, I am happy to.

Mr. Engel. Well, I think it is important. Will you give me a commitment to meet with us? I would appreciate it.

Secretary Leavitt. I am very happy to meet with you.

Mr. Engel. Thank you, Mr. Secretary.

Ms. DeGette. The Chair recognizes the gentleman from New Jersey for 5 minutes.

Mr. Ferguson. Thank you, Madam Chair.

Thank you, Secretary Leavitt, for being here today. We appreciate your service. You have a very tough job and you discharge your duties with great skill and dedication and we certainly appreciate that.

I have a couple of questions today, a third if I have time. The first two are on public safety programs, the National Strategy for Pandemic Influenza, we have talked about this many times, and the second is about the strategic national stockpile for anthrax vaccines.

First I want to commend you and the Department on the great steps that you have taken to put into place all the key elements for the national strategy for pandemic influenza, the

NSPI. In your budget is a request for the third year of funding which would complete the plan. One of the key parts of the strategy is making sure that in addition to the federal stockpiles that the States are also doing what they need to do. My understanding is that to date our Federal Government has purchased 50 million courses, which is recommended under the NSPI, while the States really haven't kind of stepped up to the plate as much yet. Some States have done great. Other States are sort of in the middle and some States really haven't done anything at all. My State, for instance, is getting close to a million courses in the stockpile. It is better than 90 % of what New Jersey is supposed to be doing. But it has been really kind of a mishmash of activity on the States' parts. What can we be doing to move the States along? How can we address this? Is this addressed in the budget request for this year and what can the Federal Government do, what can the Department be doing to move States in the right direction?

Secretary Leavitt. Our pandemic plan proceeds as it was laid out originally. We have not had a new appropriation applied to that plan since 1986 and that is of great concern to me. We need to be successful on this budget to keep it moving forward. We are making substantial progress in the area of vaccines, particularly in the adjuvant or dose-sparing area. We are continuing to build our stockpile of antivirals, Tamifu and others that are appropriate. We have seen a robust response from most States but there are some who just made very deliberate decisions not to do it. I think that is the wrong decision but it is in fact their decision. We did pandemic summits in all 50 States and most of the territories and this issue was very put very squarely on the table and was talked about and some have made a decision not to do it. I think it is an error. We will continue to encourage them to prepare not just in the context of antivirals but in all aspects of community preparedness.

Mr. Ferguson. I would encourage you to continue those efforts whether it is a carrot or a stick, however we need to do that, because that is obviously crucial because the plan really won't be effective as it has been designed until the States are doing frankly what the Federal Government, what you and the Department have already done, which is really step up to the plate and do what is necessary.

Secretary Leavitt. We are encouraging people all over the country, whether they are a State government or a local government and for that matter those in private sector, to begin to prepare. One of the worries I will just express in one sentence is, I worry that while we are moving and working hard on this that sometimes our effort at the Federal level causes the State and local governments to not view this as a priority, and public health is fundamentally a local issue. We do a lot that they can't do but it is a local issue and they need to take responsibility and ownership for this.

Mr. Ferguson. And if you ever have recommendations for us what we can be doing as representatives from all around the country and obviously we have a great deal of interest in what is going on in our individual States, we certainly would appreciate your advice and suggestions on that front.

Let me please turn to the anthrax vaccine strategic

national stockpile. Back in 2001, the Department established the need for 75 million doses of the anthrax vaccine, which would protect about 25 million people. The past 6 years HHS has procured closing in on 29 million doses, as far as I am aware, still short of the number that we are trying to reach. My understanding is that HHS is trying to procure this second-generation anthrax vaccine called RPA, which it hasn't been approved yet. It is not going to be available I understand for at least a few years if not several years. It has a short lifespan, a year-, year-and-a-half shelf life. We have other vaccines, proven vaccines which we have begun to stockpile already, they have a longer shelf life, they are proven, they have been in use. Why not continue to purchase and stockpile what we have available to us, what we know works and which frankly will last us longer in terms of shelf life than perhaps waiting for this second-generation vaccine which frankly we aren't even sure of its effectiveness yet?

Secretary Leavitt. Well, as you point out, there is no such thing at this moment as a second-generation vaccine so we do continue to stockpile the first generation and we are building according to our goal. However, it is necessary that we get to the second generation, and what we are doing now is essentially research and development and we are asking for people to help us solve those problems.

Mr. Ferguson. Thank you very much.

Thank you, Madam Chair.

Ms. DeGette. The Chair recognizes the gentlelady from California for 5 minutes.

Mrs. Capps. Thank you, Madam Chair, and thank you, Mr. Secretary.

Earlier this morning my colleague, Heather Wilson, brought up her great concern with the recovery audit contractor program. Secretary Leavitt, you claim that you have recovered over $400 but your own report that was released today disputes that assertion. I have here a summary of that report. Due to the high error rate, especially in California, that figure is actually lower because of all the claims that providers are appealing, and finally when they get to the third appeal before an administrative judge, they are winning. Eighty-eight % of the supposed overpayments have been recouped from inpatient claims yet your own chief financial officer yesterday in a briefing for committee staff, which my staff person attended, admitted that the program was fatally flawed when it came to inpatient rehab and said we shouldn't even bother using it as an example. With an error rate of over 40 % in California as proven by a third-party evaluation of the program, I don't believe we are ready to move forward with this program. I believe that evaluation is only the tip of the iceberg. Auditing is a critical part of safeguarding taxpayer dollars and none of the providers I have ever meet object to auditing but it must be done correctly, and all indications are that this program, the one we have experienced in California, does not meet the test. Here are three or four of my questions to which I hope brief responses will suffice.

Do the figures in your evaluation reflect all of the money you are now accountable for returning to the providers because they have been winning their appeals?

Secretary Leavitt. Congresswoman, I don't know that I have seen the report that you are referencing and I am not sure that from what I have heard about it that it reflects the conclusions that you have drawn. We believe that this is an important part of the way we can maintain program integrity. We also believe that it can be refined and improved. As you point out, it is a relatively new program. We have tried it a few places. We will do our best to improve it. I understand why a hospital would not like--as you say, they are willing to be audited but they really don't want to be collected, and----

Mrs. Capps. Well, not if they are--they have to pay all along the way the costs of these appeals and then when they get to the end and it is overturned, they are still not recouping that money and that is----

Secretary Leavitt. Sixty % of them aren't being overturned and 40 % we have got to get better at, if that is what the number is.

Mrs. Capps. Okay. Well, you didn't have the facts for the first one, and the report was released today and your CFO was talking about it yesterday. Can you tell me how much in taxpayer dollars CMS is spending on these appeals?

Secretary Leavitt. I don't have that fact.

Mrs. Capps. Could we get these in writing? I understand if you haven't seen it but the first question I asked that you didn't know and this one that you don't have the information, I think it would be important for our records.

Secretary Leavitt. I would be very happy to respond if you want to give me a question----

Mrs. Capps. We will put it in writing to you, and I appreciate that.

And finally I would like to know how much money of the recovered money has been paid to the private contractors which will never go back to the Medicare trust fund. In other words, they don't have to--if they are wrong at the end of the appeal process, there is no cost to them. They have already pocketed the money. That is how it was explained to us.

Secretary Leavitt. Well, that would be one interpretation of it, but again, we view it as a program with a lot of potential that we can refine, but we will respond to your questions.

Mrs. Capps. Thank you. Finally though, I want to get one more on the record if I could. According to the status update, the tables regarding appeals data doesn't reflect claim determinations of appeals filed on or before September 30, 2007. Many providers didn't receive the decisions in their favor until after September 30 and now it has been validated by administrative law judges that they were in fact denied incorrectly. They have been filing many more appeals. Wouldn't this mean, if this is the case and many had not filed until the saw that the results were coming the way they were coming even though they believed they were wrongly censured. Wouldn't this mean that we are going to see much more money paid back to the providers and much less money saved by this program if this trend continues?

Secretary Leavitt. Well, these are questions that would be better directed to CMS, and I would be happy to make certain that----

Mrs. Capps. I am going to direct them to CMS, and I appreciate your hearing me out. We have had many concerns over many months that have not gotten answers that we wanted to. Therefore, I am happy to put them in writing to you and look forward to hearing back from you. Thank you very much.

Ms. DeGette. The gentlelady yields back. The Chair recognizes the gentleman from New York for 5 minutes.

Mr. Fossella. Thank you, Madam Chair, and thank you, Mr. Secretary for your patience. Let us jump right into 9/11 and in a way follow up on Mr. Engel's comments. You know this is an issue that we care deeply about and love to have, you know, everybody at the federal level working with local and State and everybody being on the same page. Even to this day it doesn't appear that that is the case despite maybe your personal desire and efforts. You mentioned about the $175 million left unspent. I understand it is obligated more for research grant applications. One of the reasons I think it causes us concern, for example, is the cancellation of the business center, the treatment business center in December. If you recall, that was really an HHS directive to create or to establish this business center, and almost without notice that program or that effort was terminated and we haven't gotten really I think a sufficient response. The ones we got have been all over the place, to be candid. So I would like to know your position on that and what is happening and the status of that business center.

The other question, as you are probably aware, we have been told that as a result of that, within 2 weeks thousands of folks, responders, some suffering from mental trauma, will receive letters as required by HHS regulations that say the program is being terminated and that ultimately perhaps the care that they are receiving will be compromised. In addition, I know there is a $25 million placeholder in the budget but some of the services that are to be reduced, it is my understanding, would compromise the care to residents and children affected in the surrounding area that inhaled the toxins at the time.

And finally, NIOSH itself developed estimates that put costs for running the current program at $218 million a year. You say there is $175 million yet unused or obligated unused. Why only the $25 million? We are still asking the question in many different ways and we would just love for HHS to really be taking the lead. New York City and New York State have been shouldering this burden I think disproportionately. The problem is only going to get worse. Every month there are 500 new people who sign up to be monitored. They are moving throughout the country, 2,000 zip codes in the country. This is really a federal responsibility to an attack on America. So those are several questions and I would love to hear your response, Mr. Secretary.

Secretary Leavitt. Well, let me break them into two categories. First, with respect to the $175-plus million, that is not obligated for research, etc. It is there available for treatment and we want to be responsible in the treatment of those that the federal law allows us to be.

With respect to the business center, that is something I am afraid I can't add a lot to the conversation on right now. I

don't have the details. It is something that I am happy to try to respond to you in a written way but I don't have details that I can offer you today.

Mr. Fossella. Well, let me just say this, if they can do it a little more expeditiously than last year. Two weeks ago, I think from February 8 we received responses to questions I asked last year at this time on this subject. It took almost a year to get a written response. So inasmuch as time is of the essence, can you promise me it will take a little less than a year at this time?

Secretary Leavitt. I am always embarrassed when I hear that happening, so yes, I think we will do better on this one.

Mr. Fossella. Thank you. With respect to the letters that may have to go out to the responders, I mean it is sort of related to the business treatment center. I mean, it is only 2 weeks away. Is there any way you can ensure or guarantee that those letters will not go out? Can you envision being treated for mental trauma----

Secretary Leavitt. It sounds like a matter with some urgency to it. I am not familiar with it, to be honest with you, and not because I don't care about it. It is just not an area that I manage directly, but I think we can get a response to you in the short term.

Mr. Fossella. And finally, you know there has been legislation introduced. I would love for at least some comment as to maybe we can make it better if you don't support it in its current form. But if you recall, Dr. Ogwanobi promised a report on the data collected for the financial and health information needs of this program and we never saw the report, and that was last year.

Mr. Fossella. That was never intended to be a report. It was a task group that was set aside to help me resolve some issues. The issues were resolved by Congress even before they finished their work and therefore a report was not required and won't be forthcoming because it was not the intention of putting the group together. The issues it was studying were resolved by Congress.

Mr. Fossella. Thank you, Mr. Secretary.

Ms. DeGette. The Chair now recognizes the gentleman from Texas, Mr. Gonzalez, for 5 minutes.

Mr. Gonzalez. Thank you very much, Madam Chair. I know that I waived my opening remarks. I don't know if I can get an extra minute or not.

Ms. DeGette. Yes, yes, 6 minutes.

Mr. Gonzalez. I appreciate it.

Secretary Leavitt, welcome, and I thank you for your patience. I have about four different areas. I want to start on what I think might be a simple one. I want to follow up on what Congressman Markey was making reference to regarding health information technology, electronic medical records or whatever we want to call it because I think we are all embracing the concept. We understand its benefits but we are very concerned about the privacy factor here. Would you agree with the statement that regardless of how medical records may be gathered, retained, stored, disseminated, that the principles of privacy that belong to that patient apply regardless of the technology that is being utilized?

Secretary Leavitt. I believe that a patient has to right to assure that their medical information will not be transported to another party without their permission.

Mr. Gonzalez. I am just saying, if we can all agree, because we have had this debate before regarding other methods of obviously keeping these records and sharing them, can we just not apply the same principles that have served us well to whatever technology we are utilizing?

Secretary Leavitt. I actually have not found much difficulty in agreeing on the principles. I have found there to be some difference based on perspective on how those principles would be applied. There is a need for a position to be able to manage records that are important to the practice of that clinic or hospital in a way that is actionable on their part consistent with their procedure. It is very clear to me as well that a consumer, a patient ought to control the dissemination of that to any other party. Those are principles I believe we can agree upon and I look forward to a conversation on ways to advance it.

Mr. Gonzalez. I am just saying that I think if we just start off with that basic proposition, we can get to trying to see how we can actually have with your pilot project and everything else. Otherwise if we start off from day one if there is a question about privacy, I assure you we are going to have a very difficult time so I think we need to be coming together real quick on those principles and then everybody that is involved with that technology can find a way to address them, I guarantee you, and it is not just medical records but it is everything else. Business models such as business technologies change doesn't mean that we forget about antitrust laws or anything. So I am just saying the concepts, principles, the very tenets of what we hold dear in this particular society carry over to any technology and I wish we would just come to an early agreement on that.

Prescription drug reimbursement rate, my understanding, again, this is just with my conversations with my pharmacist back in San Antonio, that your reimbursement rate is predicated on the average manufacturer price. Now, my local pharmacist, the little guy on the corner, is having a real hard time on that reimbursement rate. Even my grocery store-situated pharmacist is having a real hard time because in essence you are reimbursing them at the same rate that you would reimburse what we refer to a prescription benefit manager, that obviously the amounts, the quantities that are being purchased may be one thing for the prescription drug management entity as opposed to the grocery store pharmacy base or the local pharmacist. What even I think aggravates the situation is that my little pharmacist, let us say a pharmacy in the deep west side of San Antonio, I would venture to guess it is 70 % of their customers are going to be Medicaid and Medicare so they are really impacted. How do you reconcile that? And I know that this is being contested and it is out there right now waiting for a decision.

Secretary Leavitt. On Medicare part D, those reimbursement rates are negotiated between the plan and the pharmacy. On Medicaid, the reimbursement rates are actually negotiated between the State and--or in the State, and so, you know, I

would say that if those are the two primary areas of your pharmacist's practice, that he really ought to focus his attention on Medicaid on the State of Texas and then negotiating agreements that he can feel good about with the plan.

Mr. Gonzalez. Well, maybe I don't understand it as well as I should, but what is this average manufacturer price, how is it derived, who determined it, who set this particular standard?

Secretary Leavitt. Well, it has gone through a lengthy process and it has been long debated and these are questions that might best be responded to by CMS as opposed to me. I have been taken through the exercise a number of times and I understand it when I hear it but I am not certain I would be as good at explaining it to you. But it is essentially the price, the lowest price that people buy that drug at. The obvious effort is to make certain that we are able to----

Mr. Gonzalez. But we all know, I mean, just that numbers generally--if you are purchasing a lot of anything, generally you are going to get a better price. Does that mean everybody that doesn't have that kind of market share then suffers? And you are right, maybe I should discuss this with CMS and we will, and I have 45 seconds. One member of this Committee viewed your $19 billion, whatever it is for SCHIP as an expansion. Another member, Mr. Pallone, who happens to be the chair of the subcommittee, indicated that it is inadequate just to keep up with present needs. Who is right? What you have now in your budget for SCHIP, is it an expansion of SCHIP as represented by someone on the other side, or is Mr. Pallone correct to simply say just to stay up with what you have now?

Secretary Leavitt. It very clearly would cover more children going into the future. It would focus on those children who are 200 % of the poverty level. We believe that we should focus on those before we begin to expand Medicaid into populations where people, many people have insurance and would likely cancel it in order to get government insurance. Our position has been very consistent. We have tried to fund in our budget the policy that was put into the expansion or the extension, the 18-month extension. The number is different than it was before because of--I think our time is up.

Mr. Gonzalez. And I appreciate it, but I think what you are arguing here probably plays right to what Mr. Pallone represented. Thank you very much, and I yield back.

Ms. DeGette. The Chair recognizes the gentleman from Washington State for 5 minutes.

Mr. Inslee. Thank you, Mr. Secretary. You have said that your job is to defend the President's budget and I think that is a little bit like the job of a mob lawyer. It is difficult. It is busy, it is demanding and it is difficult, given this budget, and I want to ask you about it, because one of the things you said, I am not sure I agree with you. You said that you can always want more money, and I just want to point out, it is not a question of you wanting more money. It is a question of whether you have the money to do what you are charged to do, and it is very disturbing to see this letter from the scientific committee that says most of the programs are massively underfunded. If they are to carry out the public

and Congressional expectations presented them, thus whether the subcommittee has reached a proposed number that is accurate to the dollar is not the issue. It is that the FDA needs a very substantial increase in resources if it is to protect us as the public expects and Congress demands, and I would suggest that the issue is what the public expects and what the law demands, not what you or I want.

I want to ask you in specific reference to one of the FDA's jobs, which is to protect the public from these machines that are used to fool desperate people into thinking they have got a cure and these hoax machines, and this article by a Seattle newspaper, the Seattle Times, was really pretty stunning that they found in use like 40,000 of these machines, 10,000 of these EPFX machines, hundreds or thousands of the pap ion machines, and they told these horrendous stories of people in desperate conditions being defrauded out of money and hope that they might otherwise have by people using these scam machines, and we sort of looked into what the response has been and it is relatively negligible by the agency to be able to deal with this flood tide. I mean, these things are like, you know, almost one every street corner, it seems, and they are operating in wide-open advertising and they are not being shut down. So I guess the question is, does this budget allow you to fulfill the agency's responsibility to fulfill the public's expectation that you are going to shut down these bogus, fraudulent medical devices.

Secretary Leavitt. Let me deal with your first point and then go to your second. If we made the assumption that there was an unlimited amount of money available, we would never have to choose a priority. We would never have to have competing noble causes which compete. We would never have to resolve those. But that is not the world that we live in and it is not the world at least in the budget philosophy of the Administration. We believe we don't have an unlimited capacity to tax people and therefore we take what we have and do our best to allocate it. Now, I will tell you frankly in a budget is intended to be balanced by 2012, I fought very hard to get that additional money into the FDA budget and I feel good about it. When you look at what has gone on, what we have to deal with to balance the budget, it is a clear mark of our intent, and I have said a couple of times, we have added 1,000 people at FDA over the last 2 years. There is a rate limiting capacity to manage that and that expansion in a way that is productive, particularly when we are trying to change the philosophy of what we do.

Now, with respect to the medical device, FDA would be a better place to direct that. I don't know with any specificity on that device. Very clearly they have a role there. Their primary role, interesting enough, is to determine if a product is safe or not. There are both State and local responsibilities for people who are selling products but your point is, we have a responsibility, we need to meet it.

Mr. Inslee. Well, I am not sure you and I are tracking because what I would expect the Secretary to come forward and say we have a statutory obligation, we have a public expectation, this budget will not meet either of those, which I believe clearly is the case as your own scientific review board

indicates, but there just isn't enough money available to fulfill those. Now, that is what I would expect because I think it is a clear situation here and offer a rationale that there are higher priorities or you didn't want to close the tax loopholes of millionaires or you didn't want to close the tax loopholes on oil companies making $100 million a day or, you know, whatever, but just to come up and tell us that it is not going to what the Congress expects you to do, and I think that is absolutely clear.

Secretary Leavitt. Well, let me make a comment about any scientific advisory board, which there are many, and the people who devote service and we respect it and value it. They are there to advise and to inform our judgments, not as a substitution for them, and any advisory, whether it is this one or another, offers a very important perspective but we do not advocate our need to make judgments and to set priorities to advisory committees. We are informed by their judgments but they do not substitute for our judgments.

Mr. Inslee. Thank you.

Ms. DeGette. The gentleman's time has expired.

Mr. Secretary, thank you so much for making the time to be with us this morning. We are honoring our commitment to get you out of here by 12:45.

Secretary Leavitt. Thank you. It looks like I wore everybody out.

Ms. DeGette. Yes, you have worn us down to nubs. I would also look forward, I know both sides of the aisle would look forward to hearing the responses to the questions we have asked for follow-up on. Thank you very much.

The meeting adjourned.

[Whereupon, at 12:45 p.m., the Committee was adjourned.]

[Material submitted for inclusion in the record follows:]

Statement of Hon. Edolphus Towns

Thank you, Chairman Dingell and Ranking Member. Welcome Secretary Leavitt. As the Congressman from the 10th congressional district of New York, I am profoundly disappointed with the Administration's proposed fiscal year 2009 budget and CMS rules. They devastate kids, seniors, persons with disabilities, chronically ill individuals, students, research institutions, poison control centers, health care programs for 9/11 workers, and state budgets. It is with great sadness that I say this. Thank you Mr. Chairman, I yield back.

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