

**Statement of Senator Chuck Grassley  
Introduction of the Medicare Data Access for  
Transparency and Accountability Act  
April 7, 2011**

In March, I introduced S. 454, the Strengthening Program Integrity and Accountability in Health Care Act, to enhance the government's ability to combat Medicare and Medicaid fraud.

One of the provisions in that bill would require the Secretary of Health and Human Services to issue regulations to make Medicare claims and payment data available to the public similar to other federal spending disclosed on [www.USAspending.gov](http://www.USAspending.gov).

That website was created by legislation sponsored by then-Senator Obama and Senator Coburn. It lists almost all federal spending, but it doesn't include Medicare payments made to physicians.

That means virtually every other government program, including some defense spending, is more transparent than spending by the Medicare program.

Medicare is funded by taxpayers, and in 2009, the federal government spent \$502 billion on Medicare.

Taxpayers should have a right to see how their hard-earned dollars are being spent.

Also, if doctors know their billing information is public, it might deter some wasteful practices and overbilling.

On the day that I introduced S. 454, I learned that Senator Wyden was also working on legislation to make Medicare payments to physicians available to the public. We decided to work together.

Today, Senator Wyden and I are introducing the Medicare Data Access for Transparency and Accountability Act (Medicare DATA Act).

This bill would require the Secretary of Health and Human Services to issue regulations to make available a searchable Medicare payment database that the public can access at no cost.

Our bill also clarifies that data on Medicare payments to physicians and suppliers do not fall under a Freedom of Information Act (FOIA) exemption.

Under a 1979 court decision, Medicare is prohibited from releasing physicians' billing information to the public.

But before that injunction, the Department of Health, Education, and Welfare—now the Department of Health and Human Services—was in the process of releasing reimbursement data for all Medicare providers.

Third parties that have tried to obtain physician specific data through the FOIA process have failed in the past because the courts held that physicians' privacy interests outweigh the public's interest in disclosure.

The nonprofit, consumer organization—Consumers' Checkbook—for example, had filed a lawsuit against the Department of Health and Human Services to compel disclosure of that data.

The organization made its FOIA request to determine whether or not Medicare paid physicians who had the qualifications to perform the services for which they sought federal reimbursement, especially those performing a high volume of difficult procedures.

In particular, the organization was looking for physicians with insufficient board certifications or histories of disciplinary actions.

My question is: why wouldn't we want individuals examining this data to ensure that the government is protecting taxpayer dollars by preventing improper billing to the Medicare program?

And why wouldn't we want public interest watchdog groups helping to look out for potential abuse or fraud?

In January, the *Wall Street Journal* reported the American Medical Association's (AMA) concerns about making Medicare claims data publicly available.

The AMA President said that physicians "should not suffer the consequences of having false or misleading conclusions drawn from complex Medicare data that has significant limitations."

But I would like to note the value of access to Medicare billing data.

Even with limited access, the *Wall Street Journal* was able to identify suspicious billing patterns and potential abuses of the Medicare system.

The *Wall Street Journal* found cases where Medicare paid millions to a physician, sometimes for several years, before those questionable payments stopped.

Volume alone doesn't automatically mean there's fraud, waste, or abuse.

More patients may be going to a specific physician for a particular service because that physician is a leader in his or her field.

Nonetheless, to alleviate the concerns raised by the American Medical Association, our bill would require a disclaimer that the data in the public database "does not reflect on the quality of the items of services furnished or of the provider of services or supplier who furnished the items or services."

I believe transparency in the health care system leads to more accountability and thus less waste and more efficient use of scarce resources.

I've often quoted Justice Brandeis, who said, "Sunlight is the best disinfectant."

That is what Senator Wyden and I are aiming to accomplish with the Medicare DATA Act.

When it comes to public programs like Medicare, the federal government needs all the help it can get to identify and combat fraud, waste and abuse.

Our bill will add to the reforms Congress passed last year.

I yield the floor.