



Written by [Raven Clabough](#) on October 23, 2012

Rep. Issa Issues Subpoena for HHS Documents

According to Republican Rep. Darrell Issa (R-Calif.), there are indications that a federal program is being used to bolster President Obama's election chances by hiding the negative impacts of ObamaCare. Issa has issued a [subpoena](#) to receive documents on that program to prove his case.



Fox News explains, "The chairman of the House Oversight and Government Reform Committee for months has been seeking documents and correspondence behind an \$8 billion program that pays bonuses to Medicare Advantage plans."

The Medicare Advantage program was set to receive major cuts, as authorized by the Affordable Care Act, but the pilot program in question has offset 70 percent of the cuts this year by providing bonus payments to the private insurance companies.

Human Events observes, "Obamacare sucks over \$200 billion out of Medicare Advantage, something that would have been very noticeable through price increases and benefit reductions during open enrollment ... which began in October, right before the election."

According to Issa, that bonus program is being used to hide the first round of Medicare Advantage cuts in order to maintain political support amongst seniors before the election.

Both Issa and Rep. James Lankford requested documents on the bonus program on May 23, as well as in August. They had not received a response and by October, Issa and Lankford were threatening to issue a subpoena.

"Your reluctance to provide the Committee with these documents suggests that the documents and communications do not justify the Administration's assertion that there is no limit to what the Secretary of HHS can spend on demonstrations, the Administration's decision to exempt this Demonstration from long-established budget neutrality rules, or the Administration's decision to waive the requirement for an evaluation by a statistical expert for this Demonstration, among other unsupported assertions," Lankford wrote in an October letter to HHS.

"We are concerned that the only plausible explanation for the Demonstration is that you decided to utilize a loophole in the Social Security Act to temporarily cover up ObamaCare's large cuts to the 13 million seniors enrolled in Medicare Advantage until after this year's election," it continued.

Prior to the subpoena, the House Oversight Committee was given the major run-around by HHS. *Human Events* [documents](#) the numerous conversations that took place between HHS and the House Oversight Committee in regard to the request for documents, starting at the end of September and continuing until the date the documents were finally given to the House Oversight Committee.

Eventually, the HHS turned over a thousand documents, but Issa was unsatisfied.

Issa's subpoena was sent to the Department of Health and Human Services on Monday, following



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receipt of loads of other documents that Issa contends did not satisfy his request.

Issa wrote HHS Secretary Kathleen Sebelius on Oct. 19 that the subpoena was needed after 1,300 pages of documents the department sent the day before “were of no assistance to the committee’s investigation.”

The documents did not include records pertinent to the HHS’s decision to exempt the pilot program from its requirement for pilot-project budget neutrality, noted Issa.

The bonus program, called a “demonstration” project, encompasses significantly more than other test programs. Issa asserts, “This is larger than every test they’ve ever done at HHS combined,” pointing out that the program lasts until 2014.

In fact, this demonstration program is bigger than 85 previous demonstration programs combined, notes *Human Events*.

“It’s an unbelievable abuse of power,” Issa said Thursday. He noted that the program basically funds “what ObamaCare took away.”

Issa is not the first to bemoan the project. The Government Accountability Office also recommended that the program be eliminated early this year after questioning the legal authority behind the system.

In April, the GAO released a report that recommended Health and Human Services Secretary Sebelius cancel the Medicare Advantage Quality Bonus Payment Demonstration, estimated to cost \$8.35 billion over 10 years. The office questioned whether the Centers for Medicare and Medicaid Services (CMS) has the legal authority to run the bonus program.

The GAO’s website [explains](#):

By letter dated July 11, 2012, GAO’s General Counsel advised HHS Secretary Kathleen Sebelius that the Centers for Medicare & Medicaid Services (CMS) has not established that the agency’s Medicare Advantage (MA) Quality Bonus Payment Demonstration is within its legal authority under section 402 of the Social Security Amendments of 1967 as amended. In March 2012, GAO issued a report recommending that CMS terminate the \$8 billion demonstration because of the demonstration’s high cost and significant design shortcomings. CMS is implementing the demonstration in lieu of the MA quality bonus payment program established under the Patient Protection and Affordable Care Act. GAO’s General Counsel concluded, based on the March report findings and correspondence with CMS, that the agency has not established that the demonstration complies with section 402, which provides the agency authority to initiate Medicare payment changes to determine whether, and if so, which, changes in methods of Medicare payment or reimbursement have the effect of increasing the efficiency and economy of Medicare services through the provision of additional incentives.

Likewise, in July, an official with the GAO stated that he “never encountered” a demonstration project as big as this one.

The Department of Health and Human Services defends the program, however.

“The quality bonus payment demo is providing incentives to more (Medicare Advantage) plans to improve care, giving more patients high-quality choices in the program,” the department said in a written statement. “It is consistent with previous demos.”

Photo: Rep. Darrell Issa (R-Calif.) is seen at a House Judiciary Committee hearing on Capitol Hill in Washington: AP Images



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