FRAUD + ABUSE

VICE PRESIDENT GORE ANNOUNCES NEW CLINTON ADMINSTRATION EFFORTS TO FIGHT HEALTH CARE FRAUD AND ABUSE
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Today, Vice President Gore is announcing the President's crime bill, which will provide the Department of Justice (DOJ) new tools to address the billions of dollars lost to health care fraud each year. Key provisions include: prosecuting and punishing kickback offenses against Federal health care programs; ensuring the efficient prosecution of health care fraud; preventing providers from taking advantage of Medicare by declaring bankruptcy; providing new fraud fighting authority to the Federal Employee Health Benefits Program; and ensuring that penalties for health care fraud are adequate. The Vice President is also launching a new National Health Care Fraud and Abuse Task Force to develop strategies to bolster the investigation of criminal and civil health care fraud as well as train prosecutors, investigators, and other law enforcement officials about how to identify and prosecute fraudulent practices.

STRONG NEW EFFORTS TO FIGHT HEALTH CARE FRAUD AND ABUSE. Although we have decreased improper payments by almost half since 1996, the lowest error rate since the government initiated comprehensive audits three years. However, still more needs to be done. Last year, the Federal government paid $12.6 billion in improper payments from the Medicare Trust Fund and untold billions more on these type of payments in Medicaid, the Federal Employee Health Benefits Program, and the CHAMPUS program, draining resources away from programs that provide vital care to the nation's elderly, poor, and disabled. As part of the Clinton Administration's omnibus crime bill, the President will send Congress a comprehensive legislative package to fight health care fraud and abuse, providing the Department of Justice with new authority to:

- **Prosecute and punish kickback offenses against Federal health care programs.** A serious area of fraud is kickback schemes, where health care providers unnecessarily send patients for tests or to facilities where the provider is financially rewarded. Today, Vice President Gore will announce a new legislative proposal providing the Attorney General with the authority to stop criminal kickback schemes under Medicare, Medicaid, and state health care programs while they are under investigation and create new civil money penalties of at least $25,000 and up to $50,000 for individuals or entities involved in these schemes. In addition, offenders would be responsible for damages of triple the total compensation offered. Currently, Federal prosecutors are unable to obtain injunctive relief for criminal kickback offenses and are often forced to abandon in cases that, although they merit government action, often do not rise to the level of criminal charges.

- **Ensure the efficient prosecution of health care fraud.** Today, the Vice President is announcing a new legislative proposal to eliminate the prohibition against the free exchange of information between criminal investigators and civil prosecutors in health care fraud cases and to allow government attorneys to issue subpoenas in connection with any criminal or civil health care fraud case. Currently, the prosecution of health care fraud is often conducted in an inefficient manner because criminal investigators and civil prosecutors are prohibited from exchanging information about cases that may be related. In addition, the Department of Justice must rely on subpoenas issued by the HHS Inspector General when investigating civil fraud cases making it difficult to prosecute in an efficient manner.

- **Prevent providers from taking advantage of Medicare by declaring bankruptcy.** Providers who have defrauded and abused Medicare often file for bankruptcy in order to avoid paying fines or returning overpayments, leaving Medicare strapped with the bills. This provision would prevent individuals or corporations convicted of health care fraud avoiding payment of their fines by declaring bankruptcy.

- **Provide new fraud fighting authority to the Federal Employee Health Benefits Program.** All Federal health programs except FEHBP are provided a number of tools through the Health Insurance Portability and Accountability Act that facilitate the investigation of health care fraud. However, FEHBP, which spends over $17 billion a year as the nation's largest employer sponsored health insurance program, does not have the same important tools. The Vice President is announcing a new legislative proposal to expand the HIPAA provisions to include FEHBP, providing: stronger sanctions for providers who have been convicted of health care fraud, including mandatory exclusion from FEHBP; expanded anti-kickback provisions to prevent FEHBP health care providers from receiving improper gratuities for referrals or related services; and a lower standard of proof for fraudulent claims and increasing the penalty per false claim from $2,000 to $10,000.

- **Ensure that penalties for health care fraud are adequate.** The Vice President will unveil a new legislative proposal to direct the United States Sentencing Commission to study current sentencing guidelines for health care fraud, and if necessary, to amend them to reflect the serious harms associated with health care fraud by December 31, 2000. Currently, penalties for health care fraud allow for significant leniency if the offending provider or corporation admits responsibility for the fraudulent act, making it possible for individuals and entities convicted of defrauding Federal health care programs out of millions of dollars to receive a sentence of probation with limited financial culpability.

LAUNCHING A NEW TASK FORCE TO FIGHT HEALTH CARE FRAUD. The Vice President also announced that the Department of Justice, the Federal Bureau of Investigation, the Department of Health and Human Services Office of the Inspector General, the National Association of Attorneys General, the National District Attorneys Association, and the National Association of Medicaid Fraud Control Units are forming an unprecedented task force to develop strategies to collaborate and investigate criminal and civil health care fraud; implement new training programs to teach prosecutors, investigators, and other law enforcement officials how to identify instances of health care fraud and the best way to build a health care fraud case. The Task Force will also consider the full range of health care fraud and abuse issues, including abuse and neglect of individual patients in health care settings.

BUILDS ON LONGSTANDING COMMITMENT TO FIGHTING HEALTH CARE FRAUD AND ABUSE. The new steps the Vice President is taking today build on the Administration's longstanding commitment to crack down on health care fraud, waste, and abuse. Since 1993, the Administration's efforts have saved taxpayers more than $35 billion, and health care convictions have increased by more than 240 percent. Improper Medicare payments declined last year to the lowest error rate since the government initiated comprehensive audits three years ago. The Administration has assigned more Federal prosecutors and FBI agents to fight heath care fraud than ever before, and in FY 1997 and 1998 -- thanks to the stable funding source created by HIPAA -- $1.2 billion was returned to the Medicare Trust Fund. In addition, the Department of Health and Human Services, together with the Department of Justice and the AARP, are working together to increase Medicare beneficiary fraud and abuse awareness. A recent outreach campaign, titled "Who Pays? You Pay" encourages Medicare beneficiaries to review their Medicare statements and question improper charges.