NEW YORK STATE SENATOR

Martin J. Golden

Senate Republicans: Tougher Medicaid Fraud Effort Needed to Stop Abuse and Save Tax Dollars

MARTIN J. GOLDEN February 2, 2010

Senator Golden Named to New Medicaid Fraud Task Force

Albany- In an effort to strengthen the state's efforts to fight Medicaid fraud, which is driving up spending and taxes at the state and local levels, Senate Republican Leader Dean Skelos today announced the creation of the Senate Republican Task Force on Medicaid Fraud, appointing Senator Martin J. Golden (R-C-I, Brooklyn) to serve as a member.

"There is no excuse for tolerating any fraud in a program that is the fastest-growing and largest single component of state and county budgets," said Senator Skelos. "Medicaid fraud drives up state spending and taxes as well as local property taxes. We must fight fraud aggressively, restore accountability and integrity to the Medicaid program, and ensure that tax dollars are spent wisely to help the people who really need help, not enrich criminals who prey on the system."

The task force will hold hearings this month in Albany and in Nassau County and issue recommendations prior to the April 1st budget deadline. Senator Kemp Hannon (R-C-I, Garden City) will serve as the Chairman, and along with Senator Golden, the task force includes Senators George Winner (R-C-I, Elmira), Charles Fuschillo (R, Merrick), Michael

Nozzolio (R-C, Fayette), Mike Ranzenhofer (R-C-I, Amherst), Hugh Farley (R-C, Schenectady) and Vincent Leibell (R-C-I, Patterson).

Senator Marty Golden stated, “Medicaid is an essential safety net program designed to provide much needed health care services for the elderly, children and the poor. Yet at the same time, Medicaid presents unique opportunities for fraud perpetrated by both unscrupulous providers and recipients. Fraud in the Medicaid program amounts to stealing from the taxpayers. The Senate Republicans lead the way in 2006 in creating the Office of the Medicaid Inspector General, but we need to do more."

Senator Golden continued, "In his Executive Budget, Governor Paterson increased the state’s target for Medicaid fraud recovery by $300 million, to a total of $1.1 billion. We can do much better than recovering just $300 million more in fraud. New York’s Medicaid fraud recovery is far short of what it could be and still lags behind many other states. We should root out, stop and recover every last dollar of Medicaid fraud, waste and abuse to reduce spending and ease the burden on local property tax payers.”

The widespread problem of Medicaid fraud has been highlighted by several reports issued by the state Comptroller’s office that documented millions of dollars in Medicaid overpayments and billing errors, as well as tens of thousands of people that were improperly enrolled in Medicaid in New York City

Despite the fact that they are on the front lines of the Medicaid program, county officials are saying the state inhibits their efforts to stop fraud at the local level. In fact, the 2009-10 state budget approved by the Governor and legislative Democrats eliminated the eligibility requirements for face-to-face interviews, finger-imaging and asset tests for applicants for Medicaid that are conducted by counties. The interviews are intended to ensure accountability in the system, but will no longer be required as of April 2010.

"This Task Force will dig deep to find solutions to protect state taxpayers from a system that remains vulnerable to fraud and abuse," said Warren County District Attorney Kate Hogan, who is also the President of the New York State Association of District Attorneys. "Through its efforts, the members of the Task Force will combine extensive knowledge and experience in the continuing battle to combat Medicaid fraud."

The U.S. Government Accountability Office estimates that as much as 10 percent of Medicaid expenses are diverted through fraud. The Executive Budget proposes spending a total of more than $51 billion on Medicaid, meaning as much as $5 billion could be fraud in the system.

In 2006, Senator Marty Golden joined his colleagues in the Senate in passing legislation sponsored by Senator Dean Skelos, which was enacted into law, that:

> Created a new, independent Office of Medicaid Inspector General by consolidating

responsibilities and staff from six agencies into the new Office and empowering the Medicaid Inspector General with the ability to detect, investigate and recovery improper Medicaid payments;

> Provided county governments with new incentives and access to information to become active partners in the fight against Medicaid fraud;

> Enhanced the capacity of the Department of Health and Office of Medicaid Inspector General to fight fraud with new, state-of-the-art technology;

> Established new protocols and procedures to ensure the effective sharing of information and evidence regarding Medicaid fraud between the Office of Medicaid Inspector General, the Attorney General's Medicaid Fraud Control Unit, county governments and district

attorneys;

> Required health care institutions to implement corporate compliance programs and allowing providers to request advisory opinions to ensure proper billing practices, and

> Created new Health Care Fraud offenses to aid in the criminal prosecution of Medicaid fraud.

“The 2006 law is not having as much of an impact as we expected and this task force will find out why and recommend ways to improve fraud prevention, prosecution and recovery,” Senator Skelos said. “This issue becomes even more urgent when you consider reports that the federal government is investigating whether the people who are supposed to be watching out for Medicaid fraud are actually committing fraud themselves.”

In December, the state Comptroller released the results of an audit that identified as much as $92 million in Medicaid overpayments, billing errors and other problems. He called on the state Department of Health to increase scrutiny of Medicaid payments and recover improperly made payments. The Department agreed there were overpayments, but said it would only try to recover $2.4 million in overpayments.

In addition, a 2008 report in the New York Post cited an audit by the New York State Comptroller’s Office, that determined that nearly 30,000 people in New York City alone were improperly enrolled in the State’s Medicaid system between November 2006 and November 2007. While the audit shows that almost 13,000 former New York City residents should have been investigated for violations of the State’s Medicaid laws, only 207 cases were investigated.

A report issued last month by the U.S. Department of Health and Human Services ranks New York 26th in the nation in Medicaid fraud recovery, based on the number of fraud

dollars recovered per federal Medicaid dollar spent. According to the report, states such as Missouri and North Carolina recover about three times as much in Medicaid fraud, while six other states recover twice as much as New York.

A report last fall by the federal Government Accountability Office (GAO) focused on Medicaid fraud related to prescription medication. The report studied New York and four other states. The GAO faulted New York for "not having a comprehensive fraud prevention framework to prevent fraud and abuse of controlled substances paid for by Medicaid." The GAO report concluded that the cost associated with Medicaid fraud and abuse of controlled substances may be more than the cost of legal prescription drug purchases covered by Medicaid.