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United States Senate
WASHINGTON, DC 20510

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June 12, 2024

Hon. Martin O'Malley
Administrator
Social Security Administration
250 E Street, S.W., Suite 8030
Washington, D.C. 20254

Hon. Chiquita Brooks-LaSure
Administrator
Center for Medicare and Medicaid Services
U.S. Department of Health and Human
Services
Hubert Humphrey Building, Room 337H
Washington, D.C. 20201

Dear Administrator O'Malley and Administrator Brooks-LaSure:

Seniors who are the victims of fraud deserve our full support. Current Medicare regulations disadvantage senior fraud victims, adding hundreds of dollars per month in additional Medicare premiums to the bills of some elders who already have experienced significant losses. I urge you to propose a simple change in the Medicare rules that will protect our seniors from unfair and unexpected Medicare premium increases.

According to the Federal Bureau of Investigation ("FBI"), scams and fraud likely affect older Americans disproportionately. Scams that targeted those 60 and older cost our elders \$3.4 billion in 2023. Investment fraud was the costliest category of elder fraud, accounting for about \$1.2 billion in losses.

At the same time, seniors frequently engage in high-value transactions as they access their hard-earned savings. If someone makes an individual retirement account ("IRA") withdrawal or realizes a capital gain on the sale of a home, then the person must report that income to the Internal Revenue Service ("IRS"). The Social Security Administration ("SSA") uses this information to determine a senior's eligibility for benefits under Medicare subsidy programs.

Higher income can disqualify a senior from receiving Medicare premium subsidies even if a senior loses that income to fraud. If an elderly person makes a large IRA withdrawal or sells their home and then is defrauded of proceeds from either transaction, then the senior still must report income to the IRS. Medicare regulations prevent SSA from disregarding that income for subsidy calculation purposes unless the senior provides proof that someone has been convicted of fraud against them. Of course, despite the best efforts of law enforcement, many fraudsters remain at large, and the regulations require SSA to consider the stolen income in subsidy calculations. As a result, SSA and the Centers for Medicare and Medicaid Services (CMS) have denied victims of elder fraud—including some of my constituents—access to Medicare subsidies, requiring them to pay hundreds of dollars per month in extra Medicare premiums.

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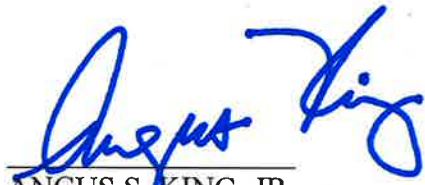
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Such an outcome simply is not fair to our seniors.

Your agencies can and should change the Medicare regulations to ensure that victims of fraud, including all eligible Medicare beneficiaries, receive the premium subsidies that help them access care. Specifically, I urge you to revise 20 C.F.R. § 418.1255(e) so that Medicare beneficiaries can substantiate fraud losses with sworn affidavits, and without the need to prove a conviction tied to the fraud or theft that may never occur in the beneficiary's lifetime.

Thank you for your dedication to the wellbeing of American seniors and all Medicare beneficiaries. I look forward to hearing from you on this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angus King", written over a horizontal line.

ANGUS S. KING, JR.
United States Senator