



Senator Feinstein Urges HHS Secretary Thompson to Dock Former-CMS
Administrator Scully's Pay for Alleged Threats
September 14, 2004

Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) today called on Department of Health and Human Services Secretary Tommy Thompson to comply with a Government Accountability Office (GAO) ruling and recover part of the salary paid to Thomas A. Scully, former Administrator of the Centers for Medicare and Medicaid Services (CMS).

GAO found that alleged threats made by Scully to fire CMS Chief Actuary Richard S. Foster if he provided various cost estimates of the then-pending prescription drug bill to members of Congress violated the law and that recovery of Scully's salary from the time of the infraction until his resignation is warranted.

Following is the letter Senator Feinstein sent to Secretary Thompson:

September 14, 2004

**The Honorable Tommy Thompson
Secretary
U.S. Department of Health and Human Services
200 Independence Ave., SW
Washington, D.C. 20201**

Dear Secretary Thompson:

I am writing you regarding the legal opinion issued last week by the Government Accountability Office (GAO) which found that alleged threats made by Thomas A. Scully, the former Administrator of the Centers for Medicare and Medicaid Services (CMS) to CMS Chief Actuary Richard S. Foster to terminate his employment if Mr. Foster provided various cost estimates of the then-pending prescription drug bill to members of Congress and their staff violated the law and that recovery of Mr. Scully's salary from the time of the infraction until his resignation is warranted.

It is my understanding that the Department of Health of Human Services (HHS) is refusing to comply with this decision and the subsequent recovery of these funds. As a Democrat who voted for the Medicare Prescription Drug Improvement and Modernization Act of 2003 as well as an appropriator, I urge you to adhere to GAO's ruling and recover these appropriated funds.

In its legal opinion, GAO aptly says, “many members considered [cost and impact] information critical to their consideration of the Medicare Prescription Drug Improvement and Modernization Act, a historic piece of legislation with significant implications for federal fiscal policy.” As you know, I was one of the members who argued in favor of the bill because all cost estimates I saw were under the \$400 billion allotted for the bill. In fact, during final debate on the Medicare conference report on the Senate floor, I noted that one strength of the bill was that it offered the first-ever voluntary prescription drug program in Medicare with a strong benefit for low-income seniors for under \$400 billion over ten years. The fact that the bill had generous benefits for low-income elderly recipients and could provide the benefits for \$400 billion was impressive to me because when we had the numbers run unofficially we received a much higher cost estimate. Therefore, I felt these “official” numbers were so compelling I voted for the bill.

Not only will inaction by HHS result in appropriated funds being taken illegally from the Medicare Trust Fund but your Department’s analysis that the bill will cost an additional \$139 billion over ten years puts the solvency of the Medicare Trust Fund in jeopardy and will increase the \$422 billion federal deficit.

Thank you for your prompt consideration of my request. I look forward to hearing from you about your response to GAO’s legal opinion.

Sincerely,

**Dianne Feinstein
U.S. Senator**

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