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## Medicare plan cost estimates ordered withheld

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**WASHINGTON** - The government's top expert on Medicare costs was warned that he would be fired if he told key lawmakers about a series of Bush administration cost estimates that could have torpedoed congressional passage of the White House-backed Medicare prescription-drug plan.

When the House of Representatives passed the controversial benefit by five votes last November, the White House was embracing an estimate by the Congressional Budget Office that it would cost \$395 billion in the first 10 years. But for months the administration's own analysts in the Centers for Medicare and Medicaid Services had concluded repeatedly that the drug benefit could cost upward of \$100 billion more than that.

Withholding the higher cost projections was important because the White House was facing a revolt from 13 conservative House Republicans who'd vowed to vote against the Medicare drug bill if it cost more than \$400 billion.

Rep. Sue Myrick of North Carolina, one of the 13 Republicans, said she was "very upset" when she learned of the higher estimate.

"I think a lot of people probably would have reconsidered (voting for the bill) because we said that \$400 billion was our top of the line," Myrick said.

Five months before the November House vote, the government's chief Medicare actuary had estimated that a similar plan the Senate was considering would cost \$551 billion over 10 years. Two months after Congress approved the new benefit, White House Budget Director Joshua Bolten disclosed that he expected it to cost \$534 billion.

Richard S. Foster, the chief actuary for the Centers for Medicare and Medicaid Services, which produced the \$551 billion estimate, told colleagues last June that he would be fired if he revealed numbers relating to the higher estimate to lawmakers.

"This whole episode which has now gone on for three weeks has been pretty nightmarish," Foster wrote in an e-mail to some of his colleagues June 26, just before the first congressional vote on the drug bill. "I'm perhaps no longer in grave danger of being fired, but there remains a strong likelihood that I will have to resign in protest of the withholding of important technical information from key policy makers for political reasons."

Knight Ridder obtained a copy of the e-mail.

Foster didn't quit, but congressional staffers and lawmakers who worked on the bill said he no longer was permitted to answer important questions about the bill's cost.

Cybele Bjorklund, the Democratic staff director for the House Ways and Means health subcommittee, which worked on the drug benefit, said Thomas A. Scully - then the director of the Medicare office - told her he ordered Foster to withhold information and that Foster would be fired for insubordination if he disobeyed.

Health and Human Services Department officials turned down repeated requests to interview Foster. The Medicare office falls under the control of HHS.

In an interview with Knight Ridder, Scully, a former health-industry lobbyist deeply involved in the administration's campaign to pass the drug benefit, denied Bjorklund's assertion that he'd threatened to fire Foster. He said he curbed Foster on only one specific request, made by Democrats on the eve of the first House vote in June, because he felt they'd use the cost estimates to disrupt the debate.

"They were trying to be politically cute and get (Foster) to score (estimate the cost of the bill) and put something out publicly so they can walk out on the House floor and cause a political crisis, which is bogus," Scully said.

"I just said, `Look, (Foster) works for the executive branch; he's not going to do it, period,'" he said.

Otherwise, Scully said, Foster was available to lawmakers and their staffs.

"... I don't think he ever felt - I don't think anybody (in the actuary's office) ever felt - that I restricted access. ... I think it's a very nice tradition that (the actuary) is perceived to be very nonpartisan and very accessible, and I continued that tradition."

Scully said Liz Fowler, the chief health lawyer for the Democrats on the Senate Finance Committee, could confirm the actuary's independence. Fowler didn't.

"He's a liar," she said of Scully.

At a Ways and Means Committee hearing last month, HHS Secretary Tommy Thompson all but repudiated Scully's tactics.

"I may have been derelict in allowing my administrator, Tom Scully, to have more control over it than I should have. ... And maybe he micromanaged the actuary and the actuary services too much. ... I can assure you that from now (on), the remaining days that I am secretary you will have as much access as you want to anybody or anything in the department. All you have to do is call me."

Democrats asked Thompson on Feb. 3 and March 3 for a complete record of Foster's estimates. They've yet to get it.

Said HHS spokesman Bill Pierce: "We respond to all inquiries in time and we will do the same" with these.

Scully left the administration and in January took a job with Alston & Bird, an Atlanta-based law firm that represents numerous hospitals and health insurers. He was exploring jobs in the private sector while he was pushing for passage of the prescription drug bill, thanks to a waiver from Thompson that allowed him to conduct job interviews while he was still a federal employee.

In February, the White House announced that President Bush's appointees no longer would be permitted to job-hunt while on the federal payroll.

Members of Congress and congressional staffers complained that Scully's handling of Foster has deepened congressional mistrust of the Bush administration and that withholding information makes it harder for Congress to draft good legislation.

Myrick didn't think the episode was an effort to "pull the wool over our eyes."

But Democratic Rep. Pete Stark of California felt otherwise. "This 'need to know, our eyes only' stuff is getting too restrictive for us to do a decent job," said Stark, the ranking Democrat on the House Ways and Means health subcommittee.

For years before Scully's arrival in 2001, key lawmakers had direct access to Medicare actuaries.

In 1997, when Republicans were having trouble getting health-care cost information out of the Clinton administration, Rep. Bill Thomas, R-Calif., who's now the chairman of the House Ways and Means Committee, added language to the Balanced Budget Act conference report to emphasize the importance of free access to Foster.

"The process of monitoring, updating and reforming the Medicare and Medicaid programs is greatly enhanced by the free flow of actuarial information from the Office of the Actuary to the committees of jurisdiction in the Congress," the report says.

"When information is delayed or circumscribed by the operation of an internal Administration clearance process or the inadequacy of actuarial resources, the Committees' ability to make informed decisions based on the best available information is compromised."

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