FOR IMMEDIATE RELEASE

November 8, 2011

Contact: Communications Office (Baucus), 202-224-4515

Jill Kozeny/Jill Gerber (Grassley), 202-224-6522

GRASSLEY, BAUCUS SCRUTINIZE PRACTICE BY HEALTH INSURERS AND TESTING LABS

Washington, DC – Senate Judiciary Committee Ranking Member Chuck Grassley (R-Iowa) and Senate Finance Committee Chairman Max Baucus (D-Mont.) are asking the leaders of three major health insurance companies and two leading clinical laboratory testing companies for information about a practice where insurers receive discounted pricing from labs in exchange for referrals, including testing for Medicare beneficiaries.

In letters sent today, the senators noted that the Inspector General for the Department of Health and Human Services previously has issued advisory opinions expressing concerns about what's called "pull through" and calling such discount arrangements "particularly suspect." A Medicaid fraud case in California that recently settled for $241 million involved allegations that a medical laboratory had overcharged the state's insurance program as part of paying kickbacks to doctors and hospitals that referred patients to its labs.

As Ranking Member of the Judiciary Committee and Chairman of the Finance Committee, respectively, Grassley and Baucus said they want to "protect the interests of our nation's Medicare and Medicaid beneficiaries and the federal health care programs."

Grassley and Baucus asked Cigna, Laboratory Corporation of America, Aetna, Inc., UnitedHealth Group Inc., and Quest Diagnostics Incorporated for copies of lab service agreements, correspondence related to negotiation of the contracts, presentations to boards about contracts, presentations to clinical laboratory testing providers, and other documents related to pull-through practices, including those provided in response to subpoenas from attorneys general.

Together, Grassley and Baucus have conducted oversight on fraud against the nation's health care programs and sponsored legislation to improve the government's ability to fight fraud. Last month, they released a report (http://finance.senate.gov/newsroom/chairman/release/?id=e32d81a2-da53-4d9c-bccc-1c50a1f33f5e) detailing tactics used by home health companies meant to increase their profits by gaming Medicare. Earlier this year, when their investigation found that the drug company Sanofi interfered in the approval of generic alternatives (http://finance.senate.gov/newsroom/chairman/release/?id=53bf8124-5319-4d2c-8c66-

f01274a271c7) to its blood-thinner drug Lovenox, the Finance leaders called on the Food and Drug Administration (FDA) to help guarantee consumers have access to affordable generic medications. Last December, Baucus and Grassley released a report detailing the relationship between Abbott labs and a Maryland doctor (http://finance.senate.gov/newsroom/chairman/release/?id=ce0c5525-b352-474f-9970-96f5afc140bb) who allegedly implanted nearly 600 unnecessary cardiac stents into his patients, costing the federal government as much as $3.8 million in overpayments. The specific stent case highlighted in the Senators' report is indicative of a widespread, national problem of unnecessary stenting. The Senators also spearheaded a two year inquiry which revealed undisclosed side effects (http://finance.senate.gov/newsroom/chairman/release/?id=bcf5aef6-9bc5-45ca-9cab-aadf5df135fa) of the diabetes drug Avandia (http://finance.senate.gov/newsroom/ranking/release/?id=bc56b552-efc5-4706-968d-f7032d5cd2e4). This resulted in the FDA restricting use of the drug (http://finance.senate.gov/newsroom/chairman/release/?id=bf64767c-4564-4e90-938a-ba1ec0283af2), ensuring that patients and doctors have the information they need to make safe, informed decisions about their medication.

Below are two of the letters, one to Cigna and another to Laboratory Corporation of America. The letters sent to Aetna and UnitedHealth Group mirror the one sent to Cigna, and the letter sent to Quest Diagnostics mirrors the one sent to Laboratory Corporation of America.

November 8, 2011

Mr. David Cordani

President and CEO

Cigna

900 Cottage Grove Road

Bloomfield, CT 06002

Dear Mr. Cordani:

As the Ranking Member of the Senate Judiciary Committee and Chairman of the Senate Finance Committee, we take seriously our responsibility to protect the interests of our nation's Medicare and Medicaid beneficiaries and the federal health care programs from waste, fraud, and abuse.

We are writing because of reports that Cigna and others may be engaged in a practice commonly referred to as "pull-through." "Pull-through" involves the alleged offering by a clinical laboratory testing company that contracts with Cigna for discounted or below cost pricing, in exchange for Cigna directing their in-network physicians to refer or arrange for the referral of other laboratory testing business, including testing for Medicare beneficiaries, to that clinical laboratory testing company. Congress passed the Federal Anti-Kickback law to protect patients and the Federal health care programs from potential influence of financial arrangements on health care decisions.

The Department of Health and Human Services Office of Inspector General has previously issued advisory opinions expressing concerns about the "pull-through" practice, noting that discount arrangements such as those at issue here are "particularly suspect."[1]

In order to better understand this practice, please provide the following documents by December 1, 2011:

1. Copies of Cigna's lab services agreement with its five largest clinical laboratory testing providers, including all attachments and exhibits.

2. Copies of all correspondence between Cigna and each of those five largest clinical laboratory testing providers relating to the negotiation of those contracts generally, and with respect to negotiation of the pricing arrangements for those contracts specifically.

3. All presentations to the Board of Directors regarding the contracts and correspondence described in request 2.

4. All presentations to the Board of Directors that refer to or describe "pull-through" practices.

5. All presentations at meetings with clinical laboratory testing providers, consultants or others that refer to or describe "pull-through" practices.

6. Correspondence with network and potential network physicians regarding bonuses and bonus arrangements as they relate to clinical labs.

7. Copies of all correspondence between Cigna and physicians relating to negotiation of contracts, and with respect to negotiation of any bonus or similar type arrangements specifically; copies of contracts with physicians.

8. Documents pertaining to network physician utilization of in and out-of-network laboratories.

9. Financial analysis or reports generated in connection with the five largest clinical laboratory testing provider accounts, including analyses used in connection with any bids submitted by those providers.

10. All documents you have previously submitted regarding "pull-through" practices in response to subpoenas or similar document requests received from the Attorney General of the State of California, to the extent not already provided in the requests above.

In cooperating with the Committees' review, no documents, records, data, or other information related to these matters, either directly or indirectly, shall be destroyed, modified, removed, or otherwise made inaccessible to the Committees.

We look forward to hearing from you by no later than December 1, 2011. All documents responsive to this request should be produced electronically, on a disc, in searchable PDF format. If you have questions regarding this request, please contact Erika Smith with the Judiciary Committee at (202) 224-5225 and Christopher Law with the Finance Committee at (202) 224-4515.

Sincerely,

Max Baucus	Charles E. Grassley
Chairman	Ranking Member
Committee on Finance	Committee on the Judiciary

November 8, 2011

David King

CEO

Laboratory Corporation of America

358 South Main Street

Burlington, N.C. 27215

Dear Mr. King:

As the Ranking Member of the Senate Judiciary Committee and Chairman of the Senate Finance Committee, we take seriously our responsibility to protect the interests of our nation's Medicare and Medicaid beneficiaries and the federal health care programs from waste, fraud, and abuse.

We are writing because of reports that Laboratory Corporation of America (LabCorp) and others may be engaged in a practice commonly referred to as "pull-through." "Pull-through" involves the alleged offering by LabCorp for discounted or below cost pricing to managed care organizations (MCOs), such as health insurance companies, in exchange for those MCO's directing their in-network physicians to refer or arrange for the referral of other laboratory testing business, including testing for Medicare beneficiaries, to LabCorp. Congress passed the Federal Anti-Kickback law to protect patients and the Federal health care programs from potential influence of financial arrangements on health care decisions.

The Department of Health and Human Services Office of Inspector General has previously issued advisory opinions expressing concerns about the "pull-through" practice, noting that discount arrangements such as those at issue here are "particularly suspect."[2] In fact, LabCorp is currently in the middle of a lawsuit in the Southern District of New York regarding this very issue.[3]

In order to better understand this practice, please provide the following documents by December 1, 2011:

1. Copies of LabCorp's lab services agreement with its five largest MCO clients, including all attachments and exhibits.
2. Copies of all correspondence between LabCorp and each of those five largest MCO's relating to the negotiation of those contracts generally, and with respect to negotiation of the pricing arrangements for those contracts specifically.
3. All presentations to the Board of Directors regarding the contracts and correspondence described in request 2.
4. All presentations to the Board of Directors that refer to or describe "pull-through" practices.
5. All presentations at sales meetings that refer to or describe "pull-through" practices.
6. All reports that track "pull-through" business, by payer, client or otherwise.
7. Correspondence with physicians regarding their utilization of laboratories other than LabCorp.
    1. Financial data showing lab revenue from each of the following payor groups and total revenue in each of the last five years. Also, show the revenues as a share of the total.[4] Specifically:
        a. Medicare revenue as a share of total revenue.
        b. Medicaid revenue as a share of total revenue.

c. Commercial payor revenue as a share of total revenue.
d. "All other" revenue as a share of total revenue.

1. Financial data showing the revenues in 8a-d as a share of total profits in each of the last five years.

2. Data showing lab volume from each of the following payor groups and total lab volume in each of the last five years. Also, show the volumes as a share of the total.[5] Specifically:

a. Medicare lab volume as a share total lab volume.

b. Medicaid lab volume as a share of total lab volume.

c. Commercial lab volume as a share of total lab volume.

d. "All other" lab volume as a share of total lab volume.

11. Financial analysis or reports generated in connection with the United Healthcare account, including analyses used in connection with any bids for that account.

1. Pricing schedules comparing the price per test for the ten most commonly ordered lab tests, showing the price per test charged to each of the five largest MCO clients, and the Medicare payment per test.

13. All documents you have previously submitted regarding "pull-through" practices in response to subpoenas or similar document requests received from the Attorney General of the State of California, to the extent not already provided in the requests above.

In cooperating with the Committees' review, no documents, records, data, or other information related to these matters, either directly or indirectly, shall be destroyed, modified, removed, or otherwise made inaccessible to the Committees.

We look forward to hearing from you by no later than December 1, 2011. All documents responsive to this request should be produced electronically, on a disc, in searchable PDF format. If you have questions regarding this request, please contact Erika Smith with the Judiciary Committee at (202) 224-5225 and Christopher Law with the Finance Committee at (202) 224-4515.

Sincerely,

Max Baucus	Charles E. Grassley
Chairman	Ranking Member
Committee on Finance	Committee on the Judiciary

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Ryan James Carey

Press Assistant

U.S. Senate Committee on Finance

202.224.4515

www.finance.senate.gov

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[1] OIG Advisory Opinions, available at http://oig.hhs.gov/fraud/docs/advisoryopinions/2004/ao0416.pdf, http://oig.hhs.gov/fraud/docs/advisoryopinions/1999/ao99_13.htm, and http://oig.hhs.gov/fraud/docs/advisoryopinions/1999/ao99_2.htm.

[2] OIG Advisory Opinions, available at http://oig.hhs.gov/fraud/docs/advisoryopinions/2004/ao0416.pdf, http://oig.hhs.gov/fraud/docs/advisoryopinions/1999/ao99_13.htm, and http://oig.hhs.gov/fraud/docs/advisoryopinions/1999/ao99_2.htm.

[3] "LabCorp COO Threatened Staff Who Didn't Assist Kickback Scheme, Suit Claims," *supra*, note 1.

[4] The shares should total 100 percent.

[5] The shares should total 100 percent.