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Democrats Demand Inquiry Into Charge by Medicare Officer

By ROBERT PEAR

WASHINGTON, March 13 — Democrats called Saturday for an investigation of charges that the Bush administration threatened to fire a top Medicare official if he gave data to Congress showing the high costs of hotly contested Medicare legislation.

The official, Richard S. Foster, chief actuary of the Medicare program, said he had been formally told not to provide the information to Congress. Moreover, he said, he was told that "the consequences of insubordination would be very severe."

Senior officials at the Medicare agency made it clear that "they would try and fire me" for responding directly to inquiries from Congress, Mr. Foster said in an interview on Saturday.

Mr. Foster said he had received that message from Thomas A. Scully, who was then administrator of the Medicare program. Mr. Scully denies threatening Mr. Foster but confirms having told him to withhold certain information from Congress.

A White House spokesman, Trent D. Duffy, declined to comment on Mr. Foster's statements. Mr. Duffy said he did not know if anyone had threatened to dismiss Mr. Foster.

The Senate and the House approved different Medicare bills on June 27, after being assured that the cost would not exceed \$400 billion over 10 years, the amount proposed by [President Bush](#).

Just two weeks earlier, Mr. Foster estimated that the drug benefits in a bill very similar to the Senate measure would cost \$551.5 billion.

Mr. Foster said he prepared "dozens and dozens of analyses and estimates" of the cost of the legislation last year. "All our estimates showed that the cost of the drug benefit, through 2013, would be in the range of \$500 billion to \$600 billion," he said.

The cost estimates were all provided to Mr. Scully, and some were also sent to the White House, the Office of Management and Budget and top officials at the Department of Health and Human Services, Mr. Foster said. For example, he said, "some cost estimates were sent directly to Doug Badger," the White House official who coordinates health policy for the administration.

Mr. Duffy confirmed that the White House had received the actuary's cost estimates for parts of the bill. But he said the administration had relied on the Congressional Budget Office as "the primary authority" on the overall cost.

"For many years," Mr. Foster said, "my office has provided technical assistance to the administration and Congress on a nonpartisan basis."

"But in June 2003, the Medicare administrator, Tom Scully, decided to restrict the practice of our responding directly to Congressional requests and ordered us to provide responses to him so he could decide what to do with them. There was a pattern of withholding information for what I perceived to be political purposes, which I thought was inappropriate."

Mr. Foster, 55, was an actuary at the Social Security Administration from 1973 to 1995, when he became chief Medicare actuary.

Congressional Democrats asked the inspector general at the Department of Health and Human Services to investigate what they described as possible intimidation of Mr. Foster.

In a letter to the inspector general, they said: "Throughout the debate on the Medicare bill, the legislation's cost was a central issue for lawmakers on both sides of the aisle. The withholding of cost information may have impeded lawmakers' ability to engage in fair debate on the bill."

The request was made by Representatives Pete Stark of California, Sherrod Brown of Ohio, Rosa DeLauro of Connecticut and Rahm Emanuel of Illinois, all Democrats, and Bernard Sanders of Vermont, an independent. Mr. Stark and Mr. Brown are the senior Democrats on powerful subcommittees responsible for health legislation.

"The administration seems to have a habit of suppressing information to serve its political purposes," Mr. Stark said. "Tom Scully told my staff that Rick Foster would be 'fired so fast his head would spin' if he released this information to us."

In most cases, Mr. Foster said, the effect of the restrictions imposed on his office was to withhold information sought by Democrats. But in one case, he said, Mr. Scully told him not to provide information requested by Representative Bill Thomas, Republican of California, the chairman of the Ways and Means Committee and a principal author of the Medicare bill.

In an e-mail message to colleagues on June 26, Mr. Foster said: "This whole episode, which has now gone on for three weeks, has been pretty nightmarish. 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."

Mr. Foster still has his job. But Senator Hillary Rodham Clinton, Democrat of New York, said, "It is outrageous that the Bush administration would withhold vital information on an issue as important as the Medicare prescription drug benefit."

The Senate Democratic leader, Tom Daschle of South Dakota, said: "An investigation of some kind is clearly warranted. Whether this is criminal or not is a matter that we will certainly want to clarify. If not criminal, it is certainly unethical."

Senator Charles E. Grassley, the Iowa Republican who is chairman of the Finance Committee, also expressed concern.

"No one should have withheld the actuary's estimate," Mr. Grassley said. "Every cost estimate is relevant to every debate, this one included, and government analysts with relevant information should never be muzzled."

But Mr. Grassley said the Democrats were being disingenuous.

"They embrace an administration estimate to suit the partisan cause of undermining the Medicare bill," he said. He said many Democrats had favored an alternative bill that "by anybody's estimate would have cost hundreds of billions of dollars more than what we enacted."

Senator Max Baucus, Democrat of Montana, worked closely with Republicans to write the Medicare law and strongly supports it. But he said he too had "grave concerns" about the withholding of data.

"It was unacceptable that Congress was denied access to this valuable information during the Medicare negotiations," Mr. Baucus said.

Robert E. Moffit, director of the Center for Health Policy Studies at the conservative Heritage Foundation, said: "There's no excuse for what the administration did. The people who were hurt the most were Congressional Republicans who put their faith in estimates that turned out to be wrong."

Mr. Moffit said the higher cost estimates could have affected the outcome of the debate or the contents of the legislation. "A number of House Republicans voted for the bill under duress," he said. "They did not want to impose huge unfunded liabilities on the American taxpayer."

The Medicare bill finally squeaked through the House on Nov. 22. The roll call lasted nearly three hours as Republicans tried to persuade opponents of the bill to switch their votes. The House ethics committee is looking into accusations of attempted bribery surrounding the vote of one lawmaker, Nick Smith, Republican of Michigan.

Mr. Bush promised drug benefits to the elderly in his 2000 campaign and continually pushed Congress to pass the Medicare bill, which relies heavily on private insurance companies to deliver such benefits.

In November 2003, before final votes on the bill, administration officials repeatedly said, without qualification, that the legislation would cost no more than \$400 billion over 10 years. In making those statements, administration officials relied on estimates by the Congressional Budget Office, without citing much higher cost estimates by the Medicare actuary.

Mr. Bush signed the measure on Dec. 8. Then, on Jan. 29, the White House announced that the new law would cost \$534 billion, or one-third more than the price tag used when Congress passed the legislation.

The administration assumed that more people would sign up for drug benefits, get low-income subsidies and enroll in private health plans.

At a press briefing on Jan. 30, the White House press secretary, Scott McClellan, said Mr. Bush had been informed of the final higher cost estimate "just in the last two weeks."

But administration officials said they had known for months that, according to their own actuaries, the costs could far exceed \$400 billion.