



United States Senate Budget Committee

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Jack Lew Complicit In Violation Of Law Aimed At Saving Medicare

Alarmed by the unsustainable growth of Medicare's unfunded obligations and the direct threat this posed to seniors, Congress in 2003 enacted a legal requirement that the President submit legislation if the Medicare Trustees issue a funding warning for the program as part of their annual report. This provision of federal law is commonly known as the Medicare Trigger, and it is intended to ensure that steps are taken to shore up the program's finances before it is too late.

The law (31 USC §1105(h)) states:

If there is a Medicare funding warning under section 801(a)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made in a year, the President shall submit to Congress, within the 15-day period beginning on the date of the budget submission to Congress under subsection (a) for the succeeding year, proposed legislation to respond to such warning.

In response to the first funding warning, issued in 2007, President George W. Bush submitted Medicare legislation to Congress in 2008. By contrast, 2012 marked the fourth consecutive year that the Obama Administration failed to submit a legislative proposal—despite a clear and unambiguous legal obligation to do so. (Medicare funding warnings have continued to be issued even after the President's health law was passed.)

For two of those four years, 2010 and 2011, Jack Lew was the Director of the Office of Management and Budget. He also served in that office for part of 2012. As Director, Lew was responsible for drafting and submitting fiscal proposals and complying with statutory requirements set out in budget law, including 31 USC §1105.

Both the Senate and House Budget Committees, as well as a strong majority of the Senate Republican Conference, have written letters asking the Obama Administration to act on the Trigger and submit legislation to address Medicare's funding shortfall. But to this day, the Administration has not complied. Meanwhile, the non-partisan Medicare Actuary projects that on its current course, the program faces \$36.9 trillion in unfunded obligations over a 75-year period. Yet the President's recent budget submissions would have actually increased Medicare spending relative to current law—putting the program in an ever more unsustainable position.

The question must be asked: What role did Lew have in the decision to ignore the legal requirement to address Medicare's funding imbalance? What confidence should members of Congress have that he will protect that program if he assumes the Treasury Secretary position—which also serves as Chair of the Board of Trustees of the Medicare Trust Funds?

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