

**KENNETH H. RYESKY, ESQ., STATEMENT FOR THE RECORD, UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE WAYS & MEANS, SUBCOMMITTEES ON SOCIAL SECURITY AND ON HEALTH, JOINT HEARING ON SOCIAL SECURITY NUMBERS ON MEDICARE CARDS:**

**I. INTRODUCTION:**

The House Ways & Means Committee, Subcommittees on Social Security and on Health, held a Hearing on 1 August 2012, regarding the use of Social Security Numbers (SSNs) on Medicare Cards. Public comments were solicited. This Commentary is accordingly submitted.

**II. COMMENTATOR'S BACKGROUND & CONTACT INFORMATION:**

Background: The Commentator, Kenneth H. Ryesky, Esq., is a member of the Bars of New York, New Jersey and Pennsylvania, and is an Adjunct Assistant Professor, Department of Accounting and Information Systems, Queens College of the City University of New York, where he teaches Business Law courses and Taxation courses. Prior to entering into the private practice of law, Mr. Ryesky served as an Attorney with the Internal Revenue Service ("IRS"), Manhattan District. As detailed below, he has submitted commentary for recent Congressional hearings on related matters.

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Disclaimer: This Commentary reflects the Commentator's personal views, is not written or submitted on behalf of any other person or entity, and does not necessarily represent the official position of any person, entity, organization or institution with which the Commentator is or has been associated, employed or retained.

**III. COMMENTARY ON THE ISSUES:**

A. Previous Hearings:

The instant proceeding of 1 August 2012 is not the first to deal with the uses of SSNs. Ways and Means hearings were held on 2 February 2012 and 8 May 2012, and the Fiscal Responsibility & Economic Growth Subcommittee of the Senate Finance Committee also held

hearings on 25 May 2011 and on 20 March 2012. The Commentator submitted Statements for the Record for the hearings of 2 February 2012,<sup>1</sup> 20 March 2012<sup>2</sup> and 8 May 2012.<sup>3</sup> 2012 TNT 95-49

The aforementioned prior commentaries addressed the uses, misuses and abuses of the SSNs of deceased individuals in connection with tax fraud. The instant Hearing, hence this instant Commentary, primarily addresses the uses, misuses and abuses of the SSNs of living individuals. The two implicate differing dynamics, and warrant differing countermeasures.

### B. The Ubiquity of SSNs:

Over the years, the SSN's use has expanded from an identifying number for participation in the Social Security program to the very identity of the SSN holder. During the 1970's, when the Commentator was a college undergraduate, the standard practice was to use the SSN as the student's identification number, which was embossed upon the student identification cards issued by the colleges. When the Commentator applied for gainful part-time employment, the prospective employer did not accept the applicants' word as to what their SSN was, but insisted upon something "official." The Commentator's college identification card was readily accepted as an "official" indicium of his SSN.

In short, what once were common, accepted and sensible uses of the SSN are now dangerous and, ever increasingly, have become forbidden. Many organizations have had to undergo culture changes in the shift away from SSNs.

### C. The Commentator's Personal Experience: An Innocent Inadvertent Breach:

In connection with what proved to be the final illness of the Commentator's father, the nursing home sent a bill which had an attached print-out from the local Blue Shield affiliate. The print-out form listed five patients at the facility, each with the Medicare number (which was one and the same as the SSN). The line for the Commentator's father was highlighted. Presumably, the other four patients or their families were sent bills with the same attachment, the name of each respective corresponding patient having been marked with a highlighter marker

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<sup>1</sup> Posted on the internet at <<http://www.fgs.org/rpac/wp-content/uploads/2012/02/wm-ssdmf-comments-2012.pdf>>, also available at 2012 TNT 25-32.

<sup>2</sup> Posted on the internet at <<http://www.fgs.org/rpac/wp-content/uploads/2012/04/senfincomm-taxfraud-20120320-corrected2.pdf>>, also available at 2012 TNT 56-30.

<sup>3</sup> Posted on the internet at <<https://docs.google.com/open?id=0B0erD-E9YY0rOXAtamx1cmJYdjQ>>, also available at 2012 TNT 95-49.

The nursing home had thus disclosed the SSNs of each patient to one or more third parties having no need to know the SSN.

This particular incident appears to have been an honest and inadvertent mistake, and the Commentator is not aware that any negative consequences have befallen any of the patients involved. But one cannot ignore the potential for damage if such disclosure is done nefariously and intentionally.

Moreover, this incident demonstrates that removal of the SSNs from the individual Medicare cards would not be sufficient if the SSNs are used in other documents involved in the Medicare administrative processes.

#### D. The Example from Academia:

It is noted that many colleges and universities have successfully transitioned away from SSNs as student identification numbers.<sup>4</sup> Such an action requires the issuance and use of substitute student identification numbers, and the promulgation and enforcement of rules regarding the use (and non-use) of SSNs by faculty, administration and other concerned parties. The Commentator was involved in the sweep of such an organizational culture change as a faculty member at the college where he teaches.

## **VI. CONCLUSION:**

The respective testimonies of Ms. King and Mr. Trenkle each discuss the roadblocks to removing SSNs from Medicare cards, and each indicate that a concerted and coordinated effort must be undertaken in order to reach that goal.

While the Medicare system is far larger and far more complex than any individual college or university, it is likely that lessons can be learned from the experiences of the academic world, and applied towards the implementation of the goal to remove SSNs from Medicare cards.

Beyond the foregoing, the Commentator now takes this opportunity to remind the Subcommittee that Social Security Numbers were initially intended to be just that, identifiers for Social Security system participants;<sup>5</sup> and dares suggest to the Subcommittee that Section 1211 of the Tax Reform Act of 1976<sup>6</sup> [Pub. L. 94-455], while seemingly a sound legislative provision

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<sup>4</sup> Some states have legislatively mandated that such be done. *See, e.g.* N.Y. EDUC. L. § 2-b.

<sup>5</sup> *See* Social Security Act of 1935, Pub. L. 74-271, § 807(b).

<sup>6</sup> Pub. L. 94-455.

when enacted by their predecessors, has proven to be ill-advised and dysfunctional in its scheme to mandate the expansion of the functions of the SSN beyond its initial purpose.

5 August 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kenneth H. Ryesky". The signature is written in a cursive style with a large, sweeping initial "K".

Kenneth H. Ryesky, Esq.