

Congress of the United States

Washington, D.C. 20515

October 2, 2014

The Honorable Sylvia Burwell
Secretary
U.S. Department of Health & Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Burwell:

As the Ranking Member of the Senate Committee on Finance and Chairman of the House Energy and Commerce Committee it is our responsibility to conduct oversight of the Department of Health Human Services (HHS), including the Centers for Medicare & Medicaid Services (CMS) and the implementation of provisions contained in the Patient Protection and Affordable Care Act (PPACA), including Section 3021, which established the Center for Medicare and Medicaid Innovation (CMMI).

The PPACA appropriated \$5 million for Fiscal Year 2010 to CMMI for the selection, testing, and evaluation of new payment and service delivery models; and \$10 billion for Fiscal Years 2011 through 2019, plus \$10 billion for each subsequent 10-fiscal year period, to continue such activities and for the expansion and nationwide implementation of successful models. Of the initial (and each subsequent) \$10 billion appropriation, at least \$25 million must be made available each fiscal year for the selection, testing, and evaluation of new payment and service delivery models.¹

The scope of the Innovation Center's mandate, funding, and its breadth of operations raises serious concerns about the potential lack of transparency and accountability for CMMI. For example, the statute does not require any external review or neutral third-party evaluation of the quality of the projects CMMI funds, nor does it require CMMI projects to achieve savings for years. Therefore, there's a substantive concern that –without effective management and oversight— CMMI projects could be wasteful, duplicative, or ineffective, while costing taxpayers billions of dollars.

These concerns are not unfounded. GAO has already noted that CMMI may be duplicating other CMS work.² Some in Congress have previously expressed concern about the strain that continued funding of CMMI would place on CMS resources, particularly in a time of fiscal uncertainty and austerity for the U.S. government.³

¹ SSA Section 1115A(f).

² <http://www.gao.gov/assets/660/650119.pdf>

³ Letter sent in November 2011, from Sen. Hatch, Enzi, and Coburn

Recent actions by CMMI have raised additional concerns, especially the recent contract awards CMMI made to 15 companies, in an amount not to exceed \$7 billion.⁴ The multiple awards were Indefinite Delivery/Indefinite Quantity (IDIQ) contracts for Research, Measurement, Assessment, Design and Analysis (RMADA). The RMADA Request for Proposal solicited bids from organizations able to provide “a wide range of analytic support and technical assistance activities that support models and demonstration programs created or derived under the auspices of the Patient Protection and Affordable Care Act (ACA), and future health reform legislation where new delivery and payment reform models are enacted.”⁵

Unfortunately, CMS’ contract oversight lapses and management errors in recent years raise concerns about CMS’ ability to effectively oversee multiple contracts of this complexity and scope. Therefore, in the interest of accountability and transparency on behalf of taxpayers, patients, and providers, we request CMS provide information regarding the following issues:

1. Please provide the exact appropriations source(s) for the funds used in the RMADA contract. Is the \$7 billion from the initial PPACA outlay to CMMI of \$10 billion, or does it come from other discretionary program management funds? What are the remaining funds available to CMMI from PPACA?
2. Please provide a specific description of the tasks CMS has planned for the 15 entities to whom contracts were awarded for the next 12 months. What amount of funding is projected for each of these tasks?
3. Do other parts of the agency, in addition to CMMI, intend to utilize the contractors in the RMADA? If so, which parts of the agency, and for what purpose?
4. Please describe the steps CMS took before the award was made, to review and assess any previous experience the agency has had with the 15 contractors directly or indirectly?
5. In a November 2012 report, the Government Accountability Office found that CMS would need to take additional action to ensure CMMI coordinated – not duplicated— other CMS offices.⁶ Has CMS used the findings from GAO, or undertaken any other efforts, to ensure the work planned under the RMADA contract does not duplicate or overlap any already existing projects or programs within CMMI or CMS?
6. Please detail the training and number of personnel involved in awarding these contracts, as well as the process for overseeing their performance and outcomes moving forward.
7. The statute does not require any external review or neutral third-party evaluation of to the quality of the CMMI projects. In fact, the statute specifically prohibits administrative or judicial review of the models selected, the model design and details, or even

⁴ https://www.fbo.gov/index?s=opportunity&mode=form&id=44f22103c8ed7e178d7b5ef5a4826d01&tab=core&_cview=1

⁵ https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=44f22103c8ed7e178d7b5ef5a4826d01&_cview=0

⁶ <http://www.gao.gov/assets/660/650119.pdf>

determinations regarding budget neutrality. Accordingly, what processes or policies has CMS instituted to ensure that \$7 billion allocated is not wasteful, duplicative, or ineffective?

8. The Congressional Research Service has previously noted that “there are no provisions in the enabling statute that require [the Innovation Center] to consider past CMS pilots in its deliberations.”⁷ Accordingly, what processes or polices has CMS instituted to ensure the \$7 billion contract is not repeating failed CMS demos of the past?

Thank you for your prompt attention to this important matter. I would appreciate your response by no later than October 31, 2014. Should you have any questions regarding this letter, please contact Kimberly Brandt of the Senate Finance Committee Minority Staff at (202) 224-4515, Josh Trent of the Energy and Commerce Committee Majority Staff at (202) 225-2927 or Chris Armstrong of the House Ways and Means Committee Majority Staff at (202) 225-3625.

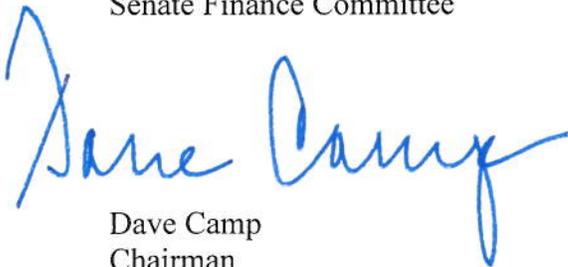
Sincerely,



Orrin Hatch
Ranking Member
Senate Finance Committee



Fred Upton
Chairman
House Energy and Commerce Committee



Dave Camp
Chairman
House Ways and Means Committee

⁷ Hahn, Jim. “Center for Medicare and Medicaid Innovation,” Congressional Research Service memorandum to Sen. Tom Coburn, February 24, 2012. Enabling statute: Section 3403 and Section 10320 of the Patient Protection and Affordable Care Act