

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

January 28, 2015

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

Dear Secretary Burwell:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee is conducting oversight on the implementation of the Patient Protection and Affordable Care Act (PPACA). Specifically, we are examining the extent to which the Department of Health and Human Services (HHS), and other relevant agencies of the federal government, are preparing for the possible consequences of the Supreme Court's decision in the case of *King v. Burwell*.

A key question presented by this case is whether the PPACA authorizes the payment of subsidies to certain individuals who purchase insurance through an exchange established by the federal government and not a state. The plain text of the PPACA expressly limits such eligibility to those individuals who purchase insurance through a state exchange established under PPACA § 1311. As about 5 million individuals are estimated to have received subsidies through a federally established exchange,<sup>1</sup> it appears that at least this many people could be impacted in some way by the Court's decision.

As you know, the Supreme Court agreed to hear this case on November 7, 2014. Oral argument is scheduled for early March and the Court's decision is anticipated before the end of its term in late June of this year.

While the Supreme Court has yet to rule, it is clear that the Court's decision could have a profound impact on the operation of the PPACA. Given HHS's responsibilities, we believe it is prudent that the Department plan for the full range of potential outcomes and consequences of the Court's decision. To that end, we request your assistance in answering the following questions by February 11, 2015:

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<sup>1</sup> See generally Larry Levitt and Gary Claxton, *The Potential Side Effects of Halbig*, July 31, 2014, Kaiser Family Foundation, <http://kff.org/health-reform/perspective/the-potential-side-effects-of-halbig/>.

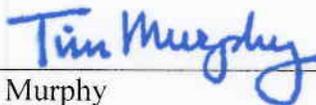
1. What actions, analysis, and/or contingency planning has HHS undertaken in advance of the Supreme Court's *King v. Burwell* decision? Please include a description of:
  - a. All scenarios considered or evaluated;
  - b. Any attempts or efforts to anticipate or assess the possible permutations and/or practical consequence of the Court's coming decision;
  - c. Any options, proposals, and/or recommendations that have been considered, adopted, or rejected, or which are currently under consideration; and
  - d. Any related memoranda or analyses produced in connection with, or as a result of, efforts to anticipate, ameliorate, or otherwise address the impact of the coming *King v. Burwell* decision.
2. Please describe the authorities that would be implicated to implement the measures, options, proposals, or recommendations referenced in Item No. 1.
3. Please describe any other federal agencies with which HHS is coordinating or planning possible responses to the Court's ruling in *King v. Burwell*.
4. Please provide any documents that your department has prepared or relied upon in conducting any review or analysis described in Items No. 1-3 above.

Thank you for your assistance with this request. An attachment to this letter provides additional information on how to respond to the Committee's request. If you or your staff has any questions, please contact Emily Newman of the Committee staff at (202) 225-2927.

Sincerely,



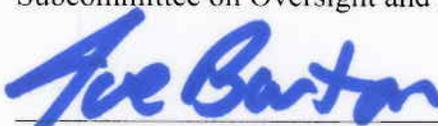
Fred Upton  
Chairman



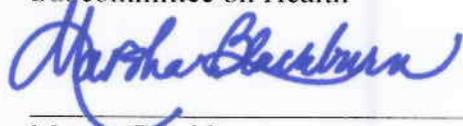
Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations



Joseph R. Pitts  
Chairman  
Subcommittee on Health



Joe Barton  
Chairman Emeritus



Marsha Blackburn  
Vice Chairman

Attachment

cc: The Honorable Frank Pallone, Jr., Ranking Member

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations

The Honorable Gene Green, Ranking Member  
Subcommittee on Health