

**Opening Statement of the Honorable Fred Upton**  
**Subcommittee on Health**  
**Hearing on “Protecting Americans from Illegal Bailouts and Plan Cancellations Under the**  
**President’s Health Care Law”**  
**July 28, 2014**

*(As Prepared for Delivery)*

Today we continue our oversight of the broken health care law and discuss solutions to protect Americans from the president’s broken promises.

First, we will discuss potential taxpayer liability and legal concerns surrounding the health law’s risk corridor program. This program was designed to limit insurance company losses and profits in the exchange. However, data from some of the nation’s largest insurers strongly suggest that the risk corridor program will mostly limit insurance company losses – potentially at the expense of the American taxpayer. Estimates show health insurance companies expect net payments of nearly \$1 billion from taxpayers in 2015 alone. These facts raise serious concerns regarding taxpayer liability under this program.

There are also serious questions regarding the legality of payments to insurance companies under this program. Earlier this year, the committee released a legal memorandum from the nonpartisan Congressional Research Service questioning the legal authority of the administration to make such payments. The memo stated that the risk corridor provision of the ACA “would not appear to constitute an appropriation of funds for the purposes of risk corridor payments....”

Without an explicit congressional appropriation, any payment to insurers would constitute an illegal transfer of taxpayer dollars. This troubling legal development comes on top of last week’s decision issued in *Halbig v. Burwell* by the D.C. Circuit Court of Appeals. The D.C. Circuit Court rebuked the IRS’ decision to spend hundreds of billions of dollars and subject millions of Americans to the law’s individual and employer mandate fines without legal authority. A conflicting ruling a few hours later simply underscores the continuing legal uncertainty brought on by dozens of delays and unilateral rewrites. This law has already disrupted the health care peace of mind of millions of Americans. Americans are rightfully concerned that this administration thinks it can simply ignore its own law.

I would like to thank Mr. Lance and Dr. Cassidy for introducing legislation that would protect our constituents from footing the bill for insurance company losses and stop the administration from circumventing the rule of law.

We will also discuss the serious issue of plan cancellations under the law. Last fall, millions of Americans unexpectedly received notices that their health care plan could not be renewed. Our constituents felt betrayed and misled after having been repeatedly promised by the president for years that, “If you like your health care plan, you can keep it.”

While last year’s plan cancellations were concentrated in the individual market, millions of American workers also face the prospect of seeing the health care plan they like go away under the Affordable Care Act. Today, we will discuss how this problem may affect Americans who depend on employer-sponsored coverage and we will review legislation introduced by Dr. Cassidy that would help America’s workers keep their health plan. This commonsense legislation would help American workers keep their health coverage and offer better choices to small businesses struggling to find affordable choices under the president’s health care law.

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