

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

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

March 14, 2013

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Ave., S.W.
Washington, D.C. 20101

Dear Secretary Sebelius:

Pursuant to Rules X and XI of the United States House of Representatives, the Committee is examining the implementation of the Patient Protection and Affordable Care Act (PPACA).

Yesterday, the Associated Press (AP) reported that “applying for benefits under President Barack Obama’s health care overhaul could be as daunting as doing your taxes.” The AP reports that draft applications for health care and their supporting documentation were “quietly posted online by the Health and Human Services Department [HHS]” and “run counter to the vision of simplicity promoted by administration officials.”

These documents are troubling. First, the applications request information not easily available to most Americans. For example, the applications request information on their employers’ health plans that most employees would have difficulty obtaining. Similarly, it is unlikely most Americans would be able to determine which of their employer health plans meets the “minimal value standard” as defined by the PPACA.

Furthermore, the HHS application asks applicants to check a box if their employer “will no longer offer health coverage next year.” As you are aware, during the debate over the PPACA, supporters of the law routinely promised Americans that, if they liked their current coverage, they would be able to keep it. By asking applicants to state whether their employers will no longer offer health coverage, HHS seems to acknowledge that PPACA will incentivize employers to discontinue providing health care plans.

Finally, these draft application materials demonstrate that applying for health care coverage under the PPACA will be a lengthy process. According to the supporting documentation obtained by the AP and available on the Centers for Medicare and Medicaid Services (CMS) website, over the next three years, Americans will spend over 4 million hours filling out these application forms.

We write to you today to request a briefing on PPACA application materials and the HHS process for reviewing the applications. In addition, we ask that you provide written answers to the following questions and supporting documentation, if available, by March 29, 2013:

1. The supporting materials¹ state that States may develop and use their own streamlined application process if approved by the Secretary. Have any States done this or inquired about the possibility of doing so? Please identify those States and provide all supporting documentation or communications.
2. The materials provided to the AP encourage applicants to complete the process on line. The supporting materials note that enrollment will begin October 1, 2013.
 - a. Will the website be ready by October 1?
 - b. How will its readiness be tested?

Please provide all supporting documentation for these two questions as well as timelines describing the readiness of the website, testing dates, or rollout.

3. The supporting materials state “[s]ome commenters expressed concern about questions regarding employer-sponsored coverage.” You do not elaborate on these concerns. What were they and did HHS address any of them? Please provide documentation and communications memorializing these concerns.
4. In the supporting materials you estimate the number of annualized burden hours to comply with these applications, both written and online. You report that for the next three years, 16 million Americans can expect to spend a total of 4,442,833 hours filling out PPACA forms.
 - a. Describe how these hours were calculated.
 - b. Describe whether these hours include the burden hours placed either on insurers or business in verifying any of the information provided in these forms.
 - c. Describe whether these hours include estimates of loss of productivity.
5. The supporting materials state the development of the form cost \$834,492. Describe the budgetary process for these materials, including whether this estimate takes into account any subsequent revisions to the form, based on comments or other rationale.

The materials obtained by the AP contain the drafts of two applications for health insurance. Because of the similarities between the applications, the next series of questions relate to the 21-page application offered for those to “get help with costs”:

6. Page 15 of this application asks for information on “Your Family’s Health Insurance” and whether coverage is offered at the applicant’s place of employment. This page

¹ The Associated Press provided a link to these materials, the “Supporting Statement for Data Collection...”, Committee staff was not able to obtain confirmation from your staff that these are final: <http://cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing-Items/CMS-10440.html>.

- requests an Employer Identification Number, a data point not known to most Americans outside of their tax filings.
- a. Were any comments received about the likelihood that applicants would know this information? How does HHS expect applicants to obtain this information?
 - b. Were employers consulted?
7. Also on page 15, the application asks: "Who can we contact about employee health coverage at this job?" Can every employer that currently offers health care coverage expect communications from the government to verify the application data of any employee that fills out these forms?
8. Page 15 asks employees to name the "lowest cost self-only health plan" available for enrollment at their place of employment. It also asks applicants to "only consider plans that meet the 'minimum value standard' set by the Affordable Care Act."
- a. Were any comments received about the likelihood applicants would know this information?
 - b. What is the "minimum value standard" set by the PPACA?
9. Applicants are asked on page 15 "do you think the employer's coverage is affordable?"
- a. Describe how you will use this information.
 - b. Will the responses to this question be recorded or stored or used in any way?
10. Page 16 of this application contains two boxes. One says: "[c]heck here if this job will no longer offer health coverage next year."
- a. Why is this included on the application?
 - b. Are you in possession of any materials, communications, or documents indicating that employers currently offering health care coverage will chose to cease providing this coverage? If so, please produce these materials.
11. The second box on page 16 asks applicants to "[c]heck here if you think this health insurance will not be affordable next year."
- a. Why is this included on the application?
 - b. If an individual checks this box, what will you do with this information?
 - c. Will this information be stored in any way?
12. Page 18 of this application requires the applicant's signature to affirm "I have provided true answers to all the questions on this form to the best of my knowledge. I know that there may be a penalty if I'm not truthful." What will this penalty be? Provide a description of the penalty and the supporting legal justification for the penalty, particularly any contained in the PPACA.
13. Page 19 of the application contains a section for "certified application counselors and navigators." Describe the role of these individuals and who is paying for them.
14. Finally, these draft materials contain many instances in which employers will need to verify information or otherwise participate in the application process. Describe the role

Letter to the Honorable Kathleen Sebelius

Page 4

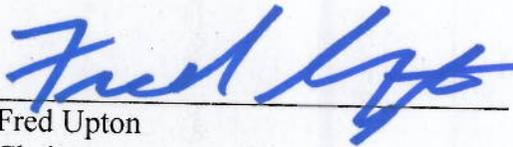
that employers can expect to play in the future in dealing with you agency as you process these applications.

Instructions for responding to the Committee's request are included as an attachment to this letter.

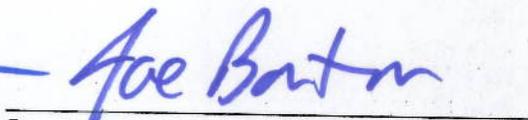
As Americans must be prepared to make important decisions about their health care coverage before the PPACA is fully implemented in less than nine months, we hope that you will respond to this letter as quickly as possible.

If you have questions or wish to discuss your responses or production, please contact Sean Hayes with Committee staff at (202) 225-2927.

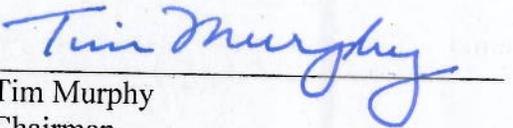
Sincerely,



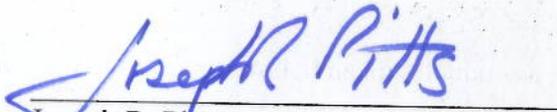
Fred Upton
Chairman



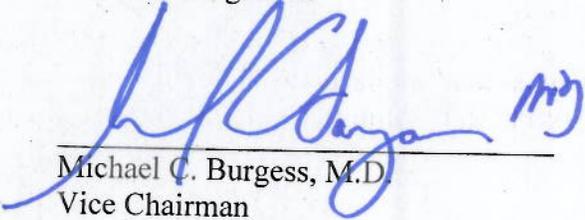
Joe Barton
Chairman Emeritus



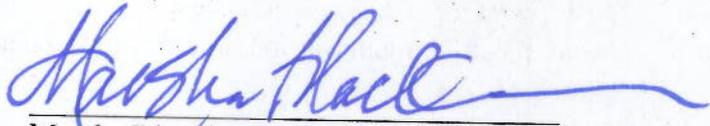
Tim Murphy
Chairman
Subcommittee on Oversight and
and Investigations



Joseph R. Pitts
Chairman
Subcommittee on Health



Michael C. Burgess, M.D.
Vice Chairman
Subcommittee on Health
Subcommittee on Oversight and Investigations



Marsha Blackburn
Vice Chairman

cc: The Honorable Henry A. Waxman, Ranking Member
The Honorable John D. Dingell, Chairman Emeritus
The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations
The Honorable Frank Pallone, Jr., Ranking Member
Subcommittee on Health

Attachment