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ONE HUNDRED THIRTEENTH 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

July 03, 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 on Energy and Commerce is investigating your decision to delay requirements under the Patient Protection and Affordable Care Act (PPACA) related to health care coverage mandates applicable to employers with more than 50 employees. This follows the decision earlier this year to delay implementation of the Small Business Health Options Program (SHOP) under PPACA.

Yesterday, the Department of the Treasury announced that the administration will "provide an additional year before the [PPACA] mandatory employer and insurer reporting requirements begin."[1] This decision was made after "[the administration] heard concerns about the complexity of the requirements and the need for more time to implement them effectively." In the three years since the passage of the PPACA, we have heard similar complaints not only from business owners, but from state leaders, government watchdogs, and individual citizens as well.

As the Treasury Department statement makes clear, the administration has been "engaging in a dialogue with businesses" and is pursuing changes in the law's implementation and requirements based on their feedback. We note that these communications and the decision-making process related to the delay of certain aspects of the law have not been disclosed publicly.

The acknowledgement that a delay in the law's implementation is needed is completely at odds with previous public statements made by administration officials.

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[1] Mark J. Mazur, Continuing to Implement the ACA in a Careful, Thoughtful Manner, U.S. Department of the Treasury, www.treasury.gov/connect/blog (last visited July 2, 2013).

Late last month, after the non-partisan Government Accountability Office announced that implementation of the PPACA is behind schedule and many tasks remain incomplete, Secretary Sebelius stated: "I want to be clear, we are ready to go on Oct. 1."[2] In April, Gary Cohen, Director of the Center for Consumer Information and Insurance Oversight, was asked if there were discussions about reducing the scope of the PPACA. He responded: "No."[3] He elaborated: "We intend to fully implement the Affordable Care Act."[4]

In order to better understand the process being used by this administration to determine which provisions of the law to implement, on what time-table, and the feedback upon which such decisions are being made, provide the following information and documents no later than July 17, 2013:

1. Identify each individual, company, or organization that has participated in any discussions with representatives of the White House, Department of Health and Human Services, the Treasury Department, or any other Executive Branch employees (hereinafter "administration officials") to discuss the requirement that employers provide coverage to their employees. This includes, but is not limited to, any discussions, phone calls, or meetings that could be part of the "dialogue with businesses" or "feedback" identified in yesterday's statement from the Treasury Department.

2. Identify the administration officials who participated in any discussions with individuals, companies, or organizations relating to the requirement that employers provide coverage to their employees. This includes, but is not limited to, any discussions, phone calls, or meetings that could be part of the "dialogue with businesses" or "feedback" identified in yesterday's statement from the Treasury Department.

3. Provide all documents and communications, including e-mail, between administration officials and any individuals, companies, or organizations discussing the requirement that employers provide coverage to their employees. This includes, but is not limited to, any documents, communications, or e-mails discussing, describing, memorializing, or otherwise relating to the meetings that could be part of the "dialogue with businesses" or "feedback" identified in yesterday's statement from the Treasury Department.

4. Provide all documents and communications, including e-mail, between administration officials and any individuals, companies, or organizations discussing other elements of the PPACA that these groups would like changed,

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[2] Steve Contorno, *Kathleen Sebelius insists administration ready to start Obamacare* , Washington Examiner, June 26, 2013.

[3] Hearing before the Subcommittee on Oversight and Investigations, "The Center for Consumer Information and Insurance Oversight and the Implementation of the Patient Protection and Affordable Care Act", April 24, 2013.

[4] Mr. Cohen did note that some "portions that will be put off to 2015" but did not mention any efforts to delay the employer mandate.

delayed, or repealed. Such elements include, but are not limited to, the individual mandate, the expansion of the Medicaid program, the federally facilitated health insurance exchanges, and the taxes and fees contained in the PPACA.

Instructions for responding to the Committee's document request are included as an attachment to this letter. Thank you for your prompt attention to this matter. If you have questions or wish to discuss your responses or production, please contact Karen Christian or Sean Hayes with Committee Staff at (202) 225-2927.

Sincerely,

Fred Upton
Chairman

Tim Murphy
Chairman
Subcommittee on Oversight and Investigations

Marsha Blackburn
Vice Chairman

Michael C. Burgess
Vice Chairman
Subcommittee on Oversight and Investigations

Joe Barton
Chairman Emeritus

Joseph R. Pitts
Chairman
Subcommittee on Health

Phil Gingrey
Member

Billy Long
Member

Steve Scalise
Member

Cory Gardner
Member

Bill Johnson
Member

Pete Olson
Member

Gregg Harper
Member

Renee Ellmers
Member

cc: The Honorable Henry Waxman, Ranking Member

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

The Honorable Frank Pallone, Ranking Member
Subcommittee on Health