

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

October 10, 2013

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

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

In August, in order to better understand the status of the federally facilitated marketplace (FFM), the Committee sent letters to six companies that were awarded contracts by the Department of Health and Human Services (HHS) to build and support the operations of the FFM. During briefings with Committee staff, and in testimony before the Subcommittee on Health, those companies represented that they expected to complete their work before open enrollment began on October 1 and that the FFM would be ready on-time. In addition, staff from your agency who briefed Committee staff in August 2013 explained that testing of the FFM was proceeding on schedule and did not identify any problems like the ones now being experienced on HealthCare.gov. Similarly, the head of the Center for Consumer Information and Insurance Oversight (CCIIO) testified before the committee on September 19, 2013, that “Consumers will be able to go online, they will be able to get a determination of what tax subsidies they are eligible for, they’ll be able to look at the plans that are available where they live, they will be able to see the premium net of subsidy that they would have to pay, and they will be able to choose a plan and get enrolled in coverage beginning October 1.”

Instead, HealthCare.gov’s “rocky start”¹ created an “internet traffic jam”² full of “glitches”³ that have prevented consumers from completing the enrollment tasks Mr. Cohen had

¹ *Web traffic, glitches slow Obamacare exchanges launch*, REUTERS (Oct. 1, 2013), <http://www.reuters.com/article/2013/10/01/us-usa-healthcare-idUSBRE98T14R20131001>.

² Mark Davis, *Access Health CT accepting applications*, NEWS 8 WTNH (Oct. 1, 2013), <http://www.wtnh.com/news/politics/access-health-ct-accepting-applications>.

³ Linda Feldman, *Obamacare 101: When will the enrollment glitches be fixed?*, CHRISTIAN SCIENCE MONITOR (Oct. 2, 2013), <http://www.csmonitor.com/USA/DC-Decoder/2013/1002/Obamacare-101-When-will-the-enrollment-glitches-be-fixed>.

outlined to the Committee. The cause of these problems, and whether they should have been anticipated or resolved prior to the start of open enrollment, is not yet clear. Recent news reports have questioned whether the problems with the exchange website are due to inadequate server capacity or poor software coding and system architecture.⁴ U.S. Chief Technology Officer Todd Park indicated that a specific component of software on HealthCare.gov was overwhelmed, thus preventing consumers from creating accounts.⁵

In order to better understand the problems now being experienced in the FFM, we ask that you contact Committee staff to schedule a briefing to occur no later than October 16, 2013. That briefing should address the following issues:

1. The Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS) or CCIIO's analysis of the problems now being experienced in the FFM, and in particular what is causing the nationwide failures being experienced by consumers;
2. Details regarding any testing performed by HHS, CMS, or CCIIO for the FFM and the results of that testing;
3. Any changes or fixes to the FFM made after open enrollment began on October 1, 2013, that were either performed by or recommended by HHS, CMS, or CCIIO.

In addition to this briefing, please provide the following documents to the Committee no later than October 23, 2013:

1. Any analyses or memoranda drafted, created, or prepared by HHS, CMS, or CCIIO on or after October 1, 2013 discussing or analyzing the failures of the FFM.
2. Provide all communications, including e-mail, to or from HHS, CMS, or CCIIO that refers or relates to any problems, flaws, testing plans, testing results, or any other issue related to the FFM and/or the FFM's performance or design.

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.

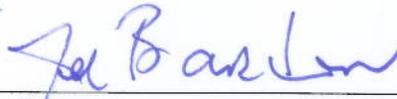
Sincerely,

⁴ Christopher Weaver, Shira Ovide and Louise Radnofsky, *Software, Design Defects Cripple Health-Care Website*, THE WALL STREET JOURNAL (Oct. 6, 2013), <http://online.wsj.com/article/SB10001424052702304441404579119740283413018.html>

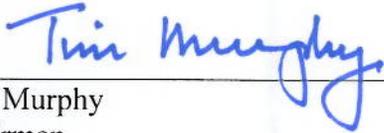
⁵ Tim Mullaney, *Obama Advisor: Demand overwhelmed Healthcare.gov*, USA TODAY (Oct. 6, 2013), <http://www.usatoday.com/story/news/nation/2013/10/05/health-care-website-repairs/2927597/>



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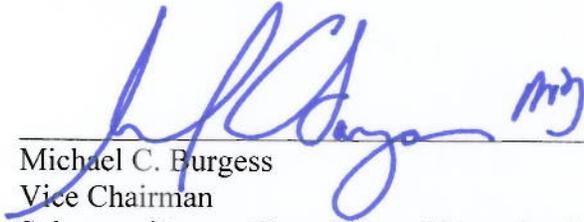
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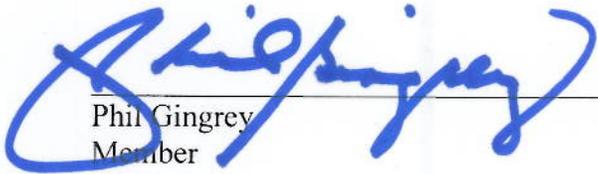
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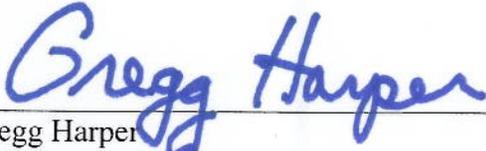
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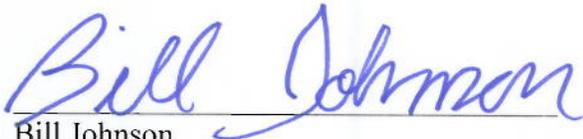
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Renee Ellmers
Member

cc: The Honorable Henry Waxman, Ranking Member
The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations