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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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October 1, 2014

The Honorable Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Ms. Tavenner:

The Committee on Oversight and Government Reform continues to conduct oversight of the implementation of the Affordable Care Act. On September 17, 2014, the Committee released a staff report entitled, "Behind the Curtain of the HealthCare.gov Rollout," documenting several transparency failures by the Administration, including the refusal to release information concerning enrollment on ObamaCare exchanges.¹ On September 18, 2014, you testified before this Committee that 7.3 million individuals were enrolled in ObamaCare health plans as of August 15, 2014.² This figure is approximately 700,000 fewer than the 8 million reported last May.³

Although the Department of Health and Human Services initially issued monthly reports on enrollment numbers during the open enrollment period, HHS stopped issuing these monthly updates after the May 2014 report. HHS refused to provide a reason for their decision to stop releasing the reports, which had helped policymakers assess benchmarks in President Obama's hallmark program.⁴ The Administration's decision to stop updating the public on enrollment figures sparked outrage among both ObamaCare supporters and critics.⁵ In addition to the public

¹ COMM. ON OVERSIGHT AND GOVERNMENT REFORM, STAFF REPORT: BEHIND THE CURTAIN OF THE HEALTHCARE.GOV ROLLOUT (Sept. 18, 2014).

² Jim Angle, *Number of ObamaCare enrollees appears to be dropping*, FOX NEWS (Sept. 23, 2014), <http://www.foxnews.com/politics/2014/09/23/number-obamacare-enrollees-appears-to-be-dropping/>.

³ DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH INSURANCE MARKETPLACE: SUMMARY ENROLLMENT REPORT FOR THE INITIAL ANNUAL OPEN ENROLLMENT PERIOD (May 1, 2014), *available at*: http://aspe.hhs.gov/health/reports/2014/marketplaceenrollment/apr2014/ib_2014apr_enrollment.pdf.

⁴ Kyle Cheney, *Administration Stops Monthly ACA Enrollment Reports*, POLITICO PRO (May 21, 2014).

⁵ See e.g. Charles Gaba, *HHS to stop issuing monthly reports (UPDATE: Confirmed)*, ACASignups.net (May 21, 2014), <http://acassignups.net/14/05/21/hhs-stop-issuing-monthly-reports>.

outrage about the lack of enrollment data, many Members of Congress called repeatedly for HHS to provide updated information, to no avail.⁶

Politico reported that the 7.3 million enrollment number “came from the health insurers, who told the Obama administration every month how many people are covered by Affordable Care Act plans.”⁷ It appears that the Centers for Medicare and Medicaid Service was always in possession of updated enrollment data but decided to withhold that information from Congress and the public for four months. As insurance industry expert Robert Laszewski noted:

When the administration kept repeating the “8 million enrolled” figure it was convenient to do so even though we all knew it was a misleading number. Now the administration apparently finds the 7.3 million tally convenient. One number, out of context, with no back-up. Even though the back-up exists – and apparently has for months. Transparency?⁸

CMS’s effort to suppress this information reflects poorly on President Obama’s promise that he is running the “most transparent administration in history.”⁹ Furthermore, by withholding information on the number of exchange enrollments, CMS hindered policymakers, the press, and the American people from better understanding the effects of the law on Americans.

To assist the Committee with its oversight, I request that you produce the following documents and information as soon as possible, but no later than 5:00 p.m. on October 15, 2014:

1. All monthly reports on exchange enrollment submitted by insurance providers, as well as all documents referring or relating to the number of individuals that have effectuated coverage in the federal and state exchanges between October 1, 2013, and November 15, 2014;
2. All documents referring or relating to the number of individuals whose effectuated enrollment has been canceled due to non-payment of premiums between October 1, 2013, and November 15, 2014, including those who are currently in the 90 day grace period.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

⁶ See e.g. Letter from Senator John Barrasso and Senator Lamar Alexander, to Marilyn Tavenner, Administrator, Centers for Medicare and Medicaid Services (Aug. 27, 2014), *available at*: http://www.barrasso.senate.gov/public_files/Barrasso_Alexander_Exchange_Letter8272014.pdf.

⁷ Jennifer Haberkorn, *7.3 million in Obamacare plans, beats CBO forecast*, *POLITICO* (Sept. 18, 2014), <http://www.politico.com/story/2014/09/obamacare-enrollment-numbers-111097.html#ixzz3Dn1Vf5fY>.

⁸ Bob Laszewski, *The “7.3 Million,”* *Health Care Policy and Marketplace Review* (Sept. 19, 2014), <http://healthpolicyandmarket.blogspot.com/2014/09/the-73-million.html>.

⁹ Jonathan Easley, *Obama Says His is the “Most Transparent Administration in History,”* *THE HILL* (February, 14, 2013).

The Honorable Marilyn Tavenner

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The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. If you have any questions about this request, please contact Meinan Goto or Emily Martin of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Issa", with a large, stylized flourish extending to the left.

Darrell Issa
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member