

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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February 13, 2015

The Honorable Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Washington, D.C. 20220

Dear Administrator Tavenner:

The Committee is continuing oversight of the implementation of the Patient Protection and Affordable Care Act (PPACA). The Committee is concerned about the lack of transparency with respect to enrollment through the state and federal exchanges created by the PPACA.

In May 2014, HHS announced that 8 million people had signed up for a health care plan through the federal and state exchanges created by the PPACA.¹ The Department did not release new enrollment figures for more than four months. Eventually, the number of Americans enrolled was lowered to 7.3 million.² Yet, this number was incorrect: the Department improperly included approximately 400,000 people who only purchased stand-alone dental coverage plans among the 7.3 million enrollees.³ After the Committee identified that the figure was wrong, an HHS spokesman acknowledged that “[a] mistake was made in calculating the number of individuals with effectuated Marketplace enrollments.”⁴

Most recently, the Department announced that “nearly 7.5 million consumers selected a plan or were automatically re-enrolled through the HealthCare.gov platform....”⁵ In fact, for the second open enrollment period, HHS will not require additional actions by an enrollee in order for coverage to continue in 2015, even if the enrollee’s current plan is no longer available. This will leave the Department in a position to choose a new plan for enrollees in those cases. We have concerns about the government choosing health plans without consumer input because those decisions may impact premiums, deductibles, copays, or even the consumer’s choice of doctor. An HHS proposal to place renewals into the lowest cost plan within the same coverage

¹ Dep’t of Health and Human Services, *Health Insurance Marketplace: Summary Enrollment Report for the Initial Annual Open Enrollment Period* (May 1, 2014), available at aspe.hhs.gov/health/reports/2014/MarketPlaceEnrollment/Apr2014/ib_2014Apr_enrollment.pdf (last accessed Jan. 21, 2015).

² *Examining ObamaCare’s Failures in Security, Accountability, and Transparency: Hearing before the H. Comm. on Oversight & Gov’t Reform*, 113th Cong. (Sep. 18, 2014) (statement of Hon. Marilyn Tavenner, Administrator, Centers for Medicare and Medicaid Services).

³ Alex Wayne, *Obamacare Sign-Ups Were Inflated With Dental Plans*, BLOOMBERG, Nov. 20, 2014.

⁴ *Id.*

⁵ Dep’t of Health and Human Services, *Open Enrollment Week 11: Jan. 24 – Jan. 30, 2015* (Feb. 4, 2015), available at <http://www.hhs.gov/healthcare/facts/blog/2015/02/open-enrollment-week-eleven.html> (last accessed Feb. 11, 2015).

level by default—even if the enrollee’s current plan is still available—could further degrade the level of overall coverage for plan holders who are automatically re-enrolled.⁶

Our concerns are heightened by recent reports that automatic renewals could increase a taxpayer’s tax liability.⁷ In light of the demonstrated unreliability of the figures announced by HHS in the past, and the general lack of transparency with respect to how the figures are calculated, we are concerned whether the Department will be able to compile accurate enrollment data during the upcoming second open enrollment period. So the Committee can better understand the automatic re-enrollment plan and HHS’s implementation, please produce the following documents and information as soon as possible, but no later than February 25, 2015:

1. All documents and communications referring or relating to the number of individuals whose coverage was automatically renewed in federal and state exchanges. In lieu of item no. 1, provide documents sufficient to show the number of individuals whose coverage was automatically renewed in federal and state exchanges.
2. All documents and communications referring or relating to the number of individuals who have effectuated coverage inside the federal and state exchanges between November 15, 2014 and the present. This would include, but is not limited to, monthly reports on exchange enrollment submitted by insurance providers or any other documents or communications referring or relating to the same. In lieu of item no. 2, please provide documents sufficient to show the number of individuals who have effectuated coverage inside the federal and state exchanges between November 15, 2014, and the present.
3. All documents and communications referring or relating to the number of individuals who selected a qualified health plan in the federal and state exchanges between November 15, 2014, and the present. This would include, but is not limited to, monthly reports on exchange plan selection submitted by insurance providers or any other documents or communications referring or relating to the same. In lieu of item no. 3, please provide documents sufficient to show the number of individuals who selected a qualified health plan in the federal and state exchanges between November 15, 2014, and the present.
4. Does CMS seek and/or receive affirmative consent to renew plans for 2015 coverage during the initial application process? If yes, what does the consent agreement state with respect to cases where the plan the consumer chose for 2014 is no longer available for 2015?
5. What number, and percent, of plans that were available in 2014 are no longer available in 2015?

⁶ Dep’t of Health and Human Services, Fact Sheet: Proposed HHS Notice of Benefit and Payment Parameters for 2016 (Nov. 20, 2014), <http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/Fact-Sheet-11-20-14.pdf>.

⁷ Sam Baker, *If You Like Your Obamacare Plan, It’ll Cost You*, NAT’L JOURNAL, Aug. 5, 2014.

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6. For consumers who will be automatically enrolled in a different plan for 2015, how will CMS ensure those consumers are receiving the correct monthly subsidy in 2015?
7. All documents and communications referring or relating to any analysis of the potential for an individual to be automatically re-enrolled in a different plan, including, but not limited to, all documents and communications referring or relating to enrollees who will need to change doctors, hospitals, or health care providers in any way.

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.

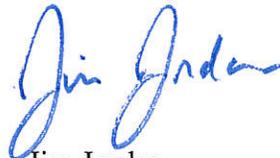
When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

If you have any questions about this request, please contact Sean Hayes or Jennifer Hemingway of the Committee staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Jim Jordan
Chairman
Subcommittee on Health Care, Benefits,
and Administrative Rules



Mark Meadows
Chairman
Subcommittee on Government Operations

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
The Honorable Gerald E. Connolly, Ranking Minority Member
Subcommittee on Government Operations
The Honorable Matt Cartwright, Ranking Minority Member
Subcommittee on Health Care, Benefits, and Administrative Rules

Enclosure