

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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June 17, 2016

The Honorable Sylvia Mathews Burwell  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, D.C. 20201

Dear Secretary Burwell:

On May 26, 2016 the Ohio Department of Insurance (ODI) announced the receivership and liquidation order for Coordinated Health Mutual, Inc., also known as InHealth, an Ohio Consumer Operated and Oriented Plan (CO-OP).<sup>1</sup> This marks the thirteenth CO-OP to close over the past year. In the wake of InHealth's liquidation, thousands of policy holders are now left scrambling for new insurance, as they did after each of the first twelve CO-OPs closed. The ODI is advising consumers to find other coverage within the next 60 days if they want to keep their federal subsidies.<sup>2</sup> The Centers for Medicare and Medicaid Services (CMS) has advised that consumers have only until June 30, 2016 to switch plans or lose their subsidy.<sup>3</sup>

The lack of consistent, reliable information from state and federal regulators is troubling. This exacerbates a greater problem: that consumers have few options for assistance as they are being urged to quickly find new insurance. On May 26, 2016—the day ODI announced the liquidation order—there was no information available on the InHealth website.<sup>4</sup> InHealth customer service representatives advised “we’re just learning about this,” and “we haven’t received enough information” to answer any questions.<sup>5</sup> The next day, the InHealth website provided a link to the liquidation order, and nothing else.<sup>6</sup> In fact, one week later, the website’s home page still featured news articles touting InHealth’s solvency, under headlines such as “Ohio’s Obamacare co-op’s late start likely spared it from wave of closures” and “InHealth Mutual stays buoyant in face of red ink.”

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<sup>1</sup> InHealth website, *available at* <https://www.insurance.ohio.gov/Newsroom/Pages/05262016InHealth.aspx> (“Current InHealth policy holders who want to keep their federal health care subsidy should visit the federal health insurance exchange within the next sixty days to replace their InHealth policy with a policy offered by another company on the federal exchange.”).

<sup>2</sup> Mark Williams, *State takes over InHealth Mutual insurance cooperative*, THE COLUMBUS DISPATCH, May 27, 2016.

<sup>3</sup> Phone call between H. Comm. on Oversight & Gov’t Reform Staff and CMS Office of Legislation Staff (June 2, 2016).

<sup>4</sup> InHealth website, *available at* <http://www.inhealthohio.org/>.

<sup>5</sup> Phone calls from H. Comm. on Oversight & Gov’t Reform staff to InHealth customer service number 1-800-580-8502 (May 26, 2016).

<sup>6</sup> InHealth website, *available at* <http://www.inhealthohio.org/>. As of June 3, 2016, the website did not provide guidance for enrollees regarding implications of the liquidation or next steps.

Consumers do not seem likely to fare any better with HealthCare.gov customer service. Between May 26, 2016 and June 2, 2016, Committee staff placed thirteen calls to 1-800-318-2596, the HealthCare.gov customer service line. On each occasion, Committee staff asked the HealthCare.gov customer service representative (CSR) whether they could provide any information about the closure of InHealth. Committee staff asked the CSRs to specifically check their system for any notices about "InHealth," "Coordinated Health Mutual," and "Ohio CO-OP." Ten times, and as recently as June 2, the CSR advised Committee staff that there was no information in their system about InHealth or the closure. None of the CSRs could answer whether InHealth's liquidation would place individuals at risk of losing their federal subsidy if they remained in the plan until year end. The results of this sampling are contrary to the Department's representation that HealthCare.gov CSRs have received training regarding the closure, are ready to assist with enrollment into new plans, and received updated call center scripts regarding the closure as of May 26-27, 2016.<sup>7</sup>

For the past seven months, you and your staff have refused to produce documents to the Committee regarding the CO-OP Program.<sup>8</sup> You have been particularly opposed to providing documents relating to CO-OPs operating under Corrective Action Plans (CAPs). InHealth was one such CO-OP. Despite the Department's apparent belief that the CAPs and monitoring efforts would be sufficient to keep the CO-OPs viable, yet another CO-OP failed. The first dozen CO-OP closures disrupted insurance for approximately 740,000 individuals and small-business employees.<sup>9</sup> Nearly 22,000 are affected by InHealth's liquidation.<sup>10</sup> Hundreds of thousands more could be left in the lurch as additional CO-OPs close. This crisis was preventable, had the Department been more transparent with respect to the precarious financial position of the CO-OPs.

Materials reviewed *in camera* by Committee staff show that many of the ten remaining CO-OPs are in a similar, if not worse position than the CO-OPs that have shuttered. This is troubling, because it means the Administration has misled consumers into enrolling into CO-OPs that are likely to fail. The Department, however, is in a position to alleviate some of the imminent harm to consumers by complying with the subpoena issued to you on February 17, 2016. So the Committee can help the Department identify responsive documents, and to provide additional information about CO-OP Program operations, please make six CO-OP Program senior staff available to speak with Committee staff as soon as possible, but no later than July 1, 2016. Specifically, please schedule transcribed interviews for:

1. Kevin Counihan, Deputy Administrator and Director CCIIO;
2. Matthew Lynch, Director, Insurance Programs Group;
3. Kelly O'Brien, Director CO-OP Division;
4. Reed Cleary, Manager, Finance and Risk Management;

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<sup>7</sup> Phone call between H. Comm. on Oversight & Gov't Reform Staff and CMS Office of Legislation Staff (June 2, 2016).

<sup>8</sup> Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight & Gov't Reform, to Hon. Sylvia Burwell, Sec'y, U.S. Dep't Health and Human Serv. (May 18, 2016).

<sup>9</sup> Amy Goldstein, *More than half of ACA co-ops now out of insurance marketplaces*, WASH. POST, Nov. 3, 2015.

<sup>10</sup> Mark Williams, *State takes over InHealth Mutual insurance cooperative*, THE COLUMBUS DISPATCH, May 27, 2016.

5. Chanda McNeal, Manager, Operations Management; and
6. Meghan Elrington-Clayton, Manager, Policy & Program Integrity.

During the protracted period over which you have refused to produce materials to the Committee, the Department has generated responsive materials that post-date the Committee's document requests (dated November 20, 2015 and December 23, 2015) and subpoena (dated February 27, 2016). Be advised that those requests, and subpoena, are continuing in nature and the Department should produce all responsive records, including those that were generated after the date of the request that covers them.

Please also provide a briefing for Committee staff no later than June 24, 2016, to help the Committee better understand the Department's plans to ensure that consumers in the remaining CO-OPs are not faced with the same desperate situation as nearly 22,000 Ohioans are currently facing. Department staff should be prepared to discuss the following:

1. Which additional CO-OPs are likely to close this year;
2. The feasibility of establishing a Special Enrollment Period (SEP) to enable all individuals currently enrolled in any CO-OP plan to immediately find alternative coverage;
3. Communications between CMS and state insurance departments regarding continued operations of the ten remaining CO-OPs;
4. The process by which the Department ensures that HealthCare.gov call centers provide timely, relevant information to consumers; and
5. Whether and how the Administration will recoup federal loans, totaling over \$1.3 billion,<sup>11</sup> from the thirteen failed CO-OPs.

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" set forth in House Rule X.

Please contact Sean Hayes of Chairman Chaffetz's staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz  
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Member

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<sup>11</sup> CMS website, available at <https://www.cms.gov/CCIIO/Resources/Grants/new-loan-program.html>.