

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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August 8, 2016

Mr. Kevin Counihan
Deputy Administrator and Director
Center for Consumer Information and Insurance Oversight
Center for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Director Counihan:

On July 13, 2016 you testified before the Subcommittee on Health Care, Benefits and Administrative Rules at a hearing titled, "From Premium Increases to Failing CO-Ops: An ObamaCare Checkup." During the hearing, you were unable to answer a number of straightforward questions regarding the status of your response to several congressional subpoenas for documents, among other things. You did, however, commit to provide answers after you had the opportunity to confer with your staff. We are writing you today because the answers you and your staff subsequently provided did not adequately answer our questions.

During the hearing, you were asked if your office had begun collecting documents related to the subpoenas issued by the Committees on Energy and Commerce and Ways and Means regarding the cost-sharing reduction program. You committed to provide a response to that question several times.¹ Since then, your staff has provided two updates, neither of which was meaningful:

- July 15, 2016: "The HHS Office of the Assistant Secretary for Legislation is handling the Department's response to the subpoenas and have been working directly with the staffs of those Committees."²

¹ *From Premium Increases to Failing CO-Ops: An Obamacare Checkup: Hearing before the H. Comm. on Oversight & Gov't Reform*, 114th Cong. (July 13, 2016) (statements of Kevin Counihan), transcript at 37-45 ("I'll need to get back to you."; "Sir, I want to be responsive to you. Let me get back to you, please."; "I'll have to circle that back to you."; "Sir, what I would like to say is I need to get back to you with that timing."; "We'll get back to you."; "Sir, I need to get back to you."; "Sir, what I'm telling you is the following: I want to be as responsive to you as possible. I want to give you an accurate timeframe. What I'm asking from you is to give me the time to be able to be responsive.").

² Email from Center for Medicare and Medicaid Serv. staff to H. Comm. on Oversight & Gov't Reform staff (July 15, 2016, 3:56 p.m.).

- August 1, 2016: “Since the hearing, we have been working directly with Committee staff to provide them additional information regarding their requests. Specifically, we have had both phone and email conversations with Committee staff over the last two weeks about the next steps. We will continue to work directly with them. I am happy to chat further if that would be helpful.”³

The Committee’s expectations for your response to questions about the status of complying with congressional subpoenas, and your various commitments to be responsive, have been insufficient. In light of this, the Committee requests that you appear for a transcribed interview to more fully discuss these procedural and substantive questions. We look forward to scheduling this as soon as possible, but no later than August 22, 2016.

The Committee on Oversight and Government Reform is the principal investigative committee of the House of Representatives. Pursuant to House Rule X, the Committee may investigate “any matter” at “any time.”

Thank you for your prompt attention to this matter. Please contact Sean Hayes of the Committee staff at (202) 225-5074 with any questions about this request.

Sincerely,



Jason Chaffetz
Chairman



Mark Meadows
Chairman
Subcommittee on
Government Operations



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

cc: The Honorable Elijah E. Cummings, Ranking Member

³ Email from U.S. Dept. of Health & Human Serv. staff to H. Comm. on Oversight & Gov’t Reform staff (Aug. 1, 2016, 3:16 p.m.).