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ON

AFFORDABLE CARE ACT IMPLEMENTATION

BEFORE THE

**U. S. HOUSE COMMITTEE ON ENERGY & COMMERCE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

SEPTEMBER 19, 2013

Testimony of Gary Cohen on Affordable Care Act Implementation
House Committee on Energy & Commerce, Subcommittee on Oversight and Investigation
September 19, 2013

Good morning, Chairman Murphy, Ranking Member DeGette, and members of the Subcommittee. Thank you for the opportunity to update you on some of the recent work at the Centers for Medicare & Medicaid Services (CMS) to implement the Affordable Care Act to put in place strong consumer protections, provide new coverage options, and give Americans the additional tools to make informed choices about their health insurance. Millions of Americans have already benefited from this law, and in less than two weeks, the Health Insurance Marketplace will be open for business, giving consumers an easy way to compare and enroll in more affordable health insurance coverage. To prepare for the start of open enrollment, CMS has worked hard to build, refine and test the infrastructure that will allow Americans to enroll in coverage confidently, simply, and securely. We are working with a variety of partners and organizations to help people learn more about the Affordable Care Act and their coverage options.

Reforming the Insurance System

Even before the Health Insurance Marketplace opens for business, millions of consumers have already benefited from the Affordable Care Act. For example, insurance companies are now required to justify a rate increase of 10 percent or more, shedding light on arbitrary or unnecessary costs. Since this rule was implemented,¹ the number of requests for insurance premium increases of 10 percent or more have plummeted from 75 percent in 2010² to 43 percent in 2011 to 26 percent in 2012 and an estimated 14 percent in the first quarter of 2013³, and Americans have saved an estimated \$1.2 billion on their health insurance premiums, thanks to review of all rate increase requests.⁴ These figures strongly suggest the effectiveness of rate review.

¹ Health Insurance Rate Review – Final Rule on Rate Increase Disclosure and Review:

<http://www.gpo.gov/fdsys/pkg/FR-2011-05-23/pdf/2011-12631.pdf>

² <http://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/rate-review09112012a.html>

³ <http://aspe.hhs.gov/health/reports/2013/rateIncreaseIndvMkt/rb.cfm>

⁴ http://aspe.hhs.gov/health/reports/2013/acaannualreport/ratereview_rpt.cfm

The rate review program works in conjunction with the 80/20 rule (or the Medical Loss Ratio rule),⁵ which generally requires insurance companies in the individual and small group markets to spend at least 80 percent of premiums on health care and quality improvement activities and no more than 20 percent on administrative costs (such as executive salaries and marketing) and profits. In the large group market (generally coverage sold to employers with more than 50 employees), insurers must spend 85 percent of premiums on medical care and quality improvement activities. If they fail to do so, they must provide rebates to their customers.

Next year, additional new rules will help make health insurance more affordable for more Americans.⁶ Most health insurance companies will be prohibited from charging higher premiums to applicants because of their current or past health problems or gender, and will be limited in how much more they can charge Americans based on their age.

All non-grandfathered policies in the individual and group markets will be required to enroll individuals, regardless of health status, age, or gender and will be prohibited from refusing to renew coverage because an individual or employee becomes sick. Plans and issuers will also be prohibited from putting annual dollar limits on essential health benefits.

Soon, consumers will be able to select an insurance plan with confidence that it will cover key health care services when they need them. All non-grandfathered policies in the individual and small group markets will cover essential health benefits, which include items and services in ten statutory benefit categories.⁷

Beginning in 2014, non-grandfathered health plans in the individual and small group markets will provide coverage in one of several standardized tiers. These tiers will allow consumers to compare plans with similar levels of coverage, which, along with comparing premiums, provider networks, and other factors, will help consumers make more informed decisions.

⁵ Medical Loss Ratio Final Rule: <https://www.federalregister.gov/articles/2012/05/16/2012-11753/medical-loss-ratio-requirements-under-the-patient-protection-and-affordable-care-act>

⁶ Health Insurance Market Rules: <http://www.gpo.gov/fdsys/pkg/FR-2013-02-27/pdf/2013-04335.pdf>

⁷ Essential Health Benefits: <http://www.gpo.gov/fdsys/pkg/FR-2012-11-26/html/2012-28362.htm>

Improving Access to Health Insurance: The Health Insurance Marketplaces

It is important to remember that most Americans currently receive health insurance through employer-based coverage, or other insurance programs, such as Medicare, Medicaid, the Children's Health Insurance Program (CHIP), or veterans' health benefits provided through the Department of Veterans Affairs. These sources of coverage will continue with the additional protections and benefits described earlier. Additionally, millions of the over 40 million Americans under the age of 65 who do not currently have health insurance will gain access to affordable coverage.

Establishing the Marketplaces

To give Americans a better way to shop for coverage, the Affordable Care Act supports states in establishing Marketplaces by January 1, 2014. In a state that does not operate such a Marketplace, the Affordable Care Act directs the Federal Government to do so, referred to as a Federally-facilitated Marketplace. A State may also choose to partner with the Federal Government to operate a Marketplace. The Marketplace will provide consumers with access to health care coverage through private, qualified health plans, and consumers seeking financial assistance may qualify for insurance affordability programs.

When consumers visit the Marketplace through HealthCare.gov beginning on October 1, 2013, they will experience a new way to shop for health insurance coverage. There, they can fill out one application to purchase coverage through a qualified health plan, to qualify for premium tax credits and reduced cost-sharing, or to apply for coverage through Medicaid or CHIP.⁸ If they live in a state that is operating its own Marketplace, HealthCare.gov will provide a link to the state's website. In recent weeks, CMS has posted information on HealthCare.gov to prepare consumers to shop for quality, affordable coverage in the Marketplace on October 1, including a "Marketplace Application Checklist," which includes the Employer Coverage Tool,⁹ a one-page

⁸ Application Elements: <http://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing-Items/CMS-10440.html>

⁹ <http://marketplace.cms.gov/getofficialresources/publications-and-articles/marketplace-application-checklist.pdf>

form that makes it easier for consumers to seek information from their employers on the coverage their employer offers.

The online version of the application will be a dynamic experience that shortens the application process based on individuals' responses. The paper application is three pages for individuals, and seven pages for families. These applications are much shorter than industry standards for health insurance applications today. The paper application was simplified and tailored to meet personal situations based on important feedback from consumer groups.¹⁰ CMS will continue to support consumers as they fill out the streamlined application, including through HealthCare.gov and a toll-free call center, which is already up and running.

Making Health Insurance More Affordable

We are already seeing evidence that the Marketplace is encouraging plans to compete for consumers, resulting in affordable rates. While some states are still finalizing or finishing final review of their rates, many, like New York, California, Washington, Vermont, Oregon, and the District of Columbia, have released preliminary rates, and in some cases, independent experts say that these rates have been lower than expected.¹¹ In the sixteen states¹² for which data are available, the preliminary rate for the lowest-cost silver plan in the individual market in 2014 is, on average, 19 percent less expensive than the estimate based on projections by the Congressional Budget Office (CBO).¹³ Outside analysts have reached similar conclusions. A recent Kaiser Family Foundation report found that “while premiums will vary significantly across the country, they are generally lower than expected,” and that fifteen of the eighteen states examined would have premiums below the CBO-projected national average of \$320 per

¹⁰ <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-Releases/2013-Press-Releases-Items/2013-04-30.html>

¹¹ <http://www.zanebenefits.com/blog/bid/301885/Washington-Health-Insurance-Exchange-Rates-Lower-Than-Expected> and http://articles.chicagotribune.com/2013-05-17/news/sns-rt-us-usa-healthcare-exchangesbre94g0sb-20130517_1_health-insurance-insurance-marketplaces-premiums

¹² The states are: California, Colorado, Connecticut, District of Columbia, Maine, Maryland, Nevada, New Mexico, New York, Ohio, Oregon, Rhode Island, South Dakota, Vermont, Virginia, and Washington.

¹³ ASPE Research Brief: Market Competition Works: Proposed Silver Premiums in the 2014 Individual and Small Group Markets Are Substantially Lower than Expected – see:

http://aspe.hhs.gov/health/reports/2013/MarketCompetitionPremiums/ib_premiums_update.pdf

month.¹⁴ We are working with insurers to prepare information for consumers about the coverage the insurers will be providing through the Federally-facilitated marketplaces, so that consumers are prepared to knowledgeably shop for coverage on October 1.

This is good news for consumers. In fact, some insurers lowered their proposed bids when they were finalized. In Washington, D.C., some issuers have reduced their rates by as much as 10 percent.¹⁵ In Oregon, two plans requested to lower their rates by 15 percent or more.¹⁶ New York State has said, on average, the approved 2014 rates for even the highest coverage levels (gold and platinum) of plans individual consumers can purchase through its Marketplace – called New York State of Health: The Official Health Plan Marketplace – represent a 53 percent reduction compared to last year’s direct-pay individual market rates.¹⁷ Furthermore, states are using their rate review powers to review and adjust rates accordingly. In Oregon, the state has reduced rates for some plans by as much as 35 percent,¹⁸ and in Maryland, the state has reduced some rates by almost 30 percent,¹⁹ offering consumers an even better deal on their coverage for the 2014 plan year.

In addition to the more affordable rates resulting from competition among insurers, insurance affordability programs, including premium tax credits and cost-sharing reductions, will help many eligible individuals and families, significantly reducing the monthly premiums and cost-sharing paid by consumers. Premium tax credits may be paid in advance and applied to the purchase of a qualified health plan through the Marketplace, enabling consumers to reduce the upfront cost of purchasing insurance. Cost-sharing reductions may also lower out-of-pocket payments for deductibles, coinsurance, and copayments for certain eligible individuals and families. A recent RAND report²⁰ indicated that, for the average Marketplace participant

¹⁴ <http://kaiserfamilyfoundation.files.wordpress.com/2013/09/early-look-at-premiums-and-participation-in-marketplaces.pdf>

¹⁵ <http://hbx.dc.gov/release/dc-health-link-applauds-aetna-decision-cut-rates>

¹⁶ http://www.oregonlive.com/health/index.ssf/2013/05/two_oregon_insurers_reconsider.html

¹⁷ <http://www.governor.ny.gov/press/07172013-health-benefit-exchange>

¹⁸ http://www.oregonlive.com/health/index.ssf/2013/06/oregon_slashes_2014_health_ins.html

¹⁹ <http://www.kaiserhealthnews.org/stories/2013/july/26/maryland-marketplace-premiums-exchange.aspx>

²⁰ http://www.rand.org/content/dam/rand/pubs/research_reports/RR100/RR189/RAND_RR189.pdf

nationwide, the premium tax credits will reduce out-of-pocket premium costs by 35 percent from their unsubsidized levels.²¹

CBO has projected that about 8 in 10 Americans who obtain coverage through the Marketplaces will qualify for assistance to make their insurance more affordable, an estimated 20 million Americans by 2017.²² A family's eligibility for these affordability programs depends on its family size, household income, and access to other types of health coverage.

Spreading the Word

Educating consumers and businesses about the benefits that Marketplaces have to offer is the first step toward helping them take advantage of those benefits. We know quite a bit about the uninsured Americans we need to reach—many have never had health insurance, so the transaction of selecting, applying, and enrolling in health coverage will be unfamiliar to them. According to a CMS analysis of the 2011 American Community Survey,²³ 20 percent of uninsured adults have not completed high school. To effectively reach these populations about their new health insurance options, information should be provided in multiple ways, including by trusted people connected to the community in an appropriate manner.

For that reason, the Affordable Care Act authorizes, and CMS is implementing, a variety of outreach, education, and enrollment assistance initiatives. We are leveraging forms of assistance that exist in the insurance market today, as well as new forms of assistance provided by the Affordable Care Act, to help educate Americans about the options for enrolling in affordable, high quality coverage beginning on October 1, 2013.

In June of this year, CMS re-launched its consumer-focused HealthCare.gov website and the 24-hours-a-day consumer call center to help Americans prepare for open enrollment and ultimately sign up for private health insurance. These tools will help Americans understand their choices and select the coverage that best suits their needs when open enrollment in the

²¹ This is a simple calculation based on Figure 6 of the RAND study, available at the link above.

²² http://www.cbo.gov/sites/default/files/cbofiles/attachments/44190_EffectsAffordableCareActHealthInsuranceCoverage_2.pdf

²³ Data set available: <https://data.cms.gov/dataset/The-Percent-of-Estimated-Eligible-Uninsured-People/9hxb-n5xb>

Marketplace begins.²⁴ Until the start of open enrollment, the Marketplace call center will provide educational information, and beginning October 1, 2013, it will assist consumers with application completion and plan selection. Additionally, consumers will be able to report suspected incidents of fraud to the call center.

States are using their own marketing efforts to help spread the word on the importance of insurance, especially for young adults. States are tailoring their message to specific audiences and the populations of their states. Recent news reports have highlighted the unique ways Oregon, Kentucky, Colorado, and Connecticut plan to enroll consumers in their Marketplaces.²⁵ As with the roll-out of expanded healthcare coverage options in the past, such as Medicare Part D and CHIP, other Federal agency partners and members of the private sector are involved in efforts to reach, engage, and assist potential enrollees.

In addition to outreach and education through HealthCare.gov, our toll-free number, and state outreach efforts, consumers in the Marketplace will be able to get in-person help from Navigators and similar in-person assisters, who will provide information to consumers about health insurance, the Marketplace, qualified health plans, and public programs including Medicaid and CHIP. In July, CMS finalized a rule outlining the standards for Navigators, in-person assisters, and certified application counselors in the Federally-facilitated and State Partnership Marketplace. Navigators are trained to provide accurate and impartial assistance to consumers shopping for coverage in the new Marketplace, including consumers who are not familiar with health insurance, have limited English proficiency, or are living with a disability. State-based Marketplaces have the option of using materials developed by the Federally-facilitated Marketplace or creating their own. Navigators will be required to adhere to strict privacy and security standards – including those concerning the protection of consumers’ personal information. Navigators also will be required to complete approximately 20 hours of training to be certified, may take additional training throughout the year, and will renew their certification annually.

²⁴ <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-Releases/2013-Press-Releases-Items/2013-06-24.html>

²⁵ <http://capsules.kaiserhealthnews.org/index.php/2013/07/state-insurance-exchanges-launching-tv-ads-to-encourage-enrollment/>

To be eligible to receive a Navigator grant, as required in the Affordable Care Act, an applicant had to demonstrate that it had existing relationships or could readily establish relationships with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be qualified to enroll in a qualified health plan. In addition to the rules set forth in the law, funding announcement, and regulations, like other entities and individuals seeking to conduct business with the Federal Government, recipients of Navigator grants were subjected to a robust screening process before the grants were awarded.²⁶ Awardees must also meet any licensing, certification, or other standards prescribed by the state or Marketplace, if applicable, so long as these state Navigator standards do not prevent the application of Title I of the Affordable Care Act. Fourteen states with Federally-facilitated Marketplaces have set additional requirements for Navigators.²⁷

Last month, CMS announced \$67 million in grant awards to 105 Navigator grant applicants. Here are just a few examples of the grant recipients:²⁸

- Ascension Health, the nation's largest Catholic and nonprofit health system. The Ascension Health Navigator project will assist consumers (individuals and small employers) in understanding new programs, taking advantage of consumer protections, and navigating the health insurance system to find the most affordable coverage that meets their needs.

²⁶ Entities and individuals are not eligible for a Federal grant, including a Navigator grant, if they are on the Excluded Parties List of entities or individuals who have been suspended or debarred by any Federal agency. Suspensions from receiving Federal grant money of up to one year may be issued based on indictments, information, or adequate evidence involving environmental crimes, contract fraud, embezzlement, theft, forgery, bribery, poor performance, non-performance, or false statements. Debarments from receiving Federal grant money for a longer period of time may be issued based on convictions, civil judgment or fact-based cases involving environmental crimes, contract fraud, embezzlement, theft, forgery, bribery, poor performance, non-performance, or false statements, as well as other causes. This careful screening will help to ensure that individuals or organizations that pose a risk to the Federal Government are not awarded Federal Navigator grants.

²⁷ The states are Arkansas, Florida, Georgia, Indiana, Iowa, Louisiana, Maine, Montana, Nebraska, Ohio, Tennessee, Texas, Virginia, and Wisconsin. See <http://www.commonwealthfund.org/Blog/2013/Jul/Will-State-Laws-Hinder-Federal-Marketplaces-Outreach.aspx>.

²⁸ <http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/navigator-list-8-15-2013.pdf>.

- The United Way of Metropolitan Tarrant County has served the people in the Fort Worth and Arlington area of Texas for over 90 years. In collaboration with 17 organizations, it will work across the state to promote enrollment in the Marketplace.
- The University of Georgia's College of Family and Consumer Sciences and Cooperative Extension Service plans to place Navigators in several offices outside the Atlanta metro region. It plans to create awareness through community workshops, to engage a network of existing partners to reach uninsured Georgia residents, and to provide direct services to consumers seeking assistance.
- The Ohio Association of Foodbanks has benefited thousands of people in need in the State of Ohio, since 1991. It will provide outreach support through a variety of phone, online, and promotional tools.
- The Southwest Louisiana Area Health Education Center was founded in 1991 and aims to improve health status in the region through access to information, education and health services. Its current services include programs on career and professional education, health interventions, preventive health, and public health support. It will help to educate Louisianans about their health coverage options .
- The Virginia Poverty Law Center is a non-profit organization that serves Virginia's legal aid system by providing advocacy, training, and litigation support on civil justice issues that affect low-income Virginians based in Richmond. It provides training and technical assistance to the legal aid community and others and works on health care issues with a wide range of statewide organization and partners. It will be working with a statewide consortium of nine well-established programs in the Commonwealth.

Other Application Assistance

Marketplaces will also use certified application counselors, who are volunteers and staff members of other organizations designated by the Department of Health and Human Services. Certified application counselors will help individuals in each Marketplace learn about and apply for enrollment in a qualified health plan and in insurance affordability programs.

More than 1,200 community health centers across the country are preparing to help enroll uninsured Americans in coverage. A partnership with the Institute of Museum and Library Services will help trusted local libraries be a resource for consumers who want information about their options. Also, more than 100 national organizations and businesses have volunteered to help Americans learn about the health care coverage available in the Marketplace, as Champions for Coverage. The growing list of Champions for Coverage is one more example of businesses and organizations across the nation pitching in to help consumers understand the coming options for quality, affordable coverage.

In addition, we have begun training other individuals who will be providing in-person assistance, such as agents and brokers. Over 15,000 agents and brokers have received training from CMS, and that number is increasing each day. All types of enrollment assisters – including in-person assistors, certified application counselors, and agents and brokers – are required to complete specific training and are subject to federal criminal penalties for violations of identity theft or fraud statutes, in addition to any relevant state law penalties.

Conclusion

By making coverage more affordable, improving the value of insurance coverage, and protecting consumers from the worst health insurance industry abuses, CMS is paving the way for a fairer, more transparent, more accessible health insurance system. Over the last three and a half years, CMS and our Federal partners have been hard at work drafting policy, implementing consumer protections, working with stakeholders, and building information technology systems that will enable Americans to shop and apply for health insurance coverage beginning twelve days from now, on October 1. As we work to complete this phase of implementation, CMS stands ready to work with you and your constituents to answer questions about this important law. Thank you for the opportunity to discuss CMS' important work to improve access to affordable health coverage for all Americans.