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4 2014: SEEKING PPACA ANSWERS

5 THURSDAY, JANUARY 16, 2014

6 House of Representatives,

7 Subcommittee on Oversight and Investigation

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The subcommittee met, pursuant to call, at 9:33 a.m., in  
11 Room 2123 of the Rayburn House Office Building, Hon. Tim  
12 Murphy [Chairman of the Subcommittee] presiding.

13 Present: Representatives Murphy, Burgess, Blackburn,  
14 Gingrey, Harper, Olson, Gardner, Griffith, Johnson, Long,  
15 Ellmers, Upton (ex officio), DeGette, Braley, Schakowsky,  
16 Butterfield, Castor, Welch, Tonko, Yarmuth and Green.

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17           Staff present: Carl Anderson, Counsel, Oversight; Gary  
18 Andres, Staff Director; Sean Bonyun, Communications Director;  
19 Karen Christian, Chief Counsel, Oversight; Noelle Clemente,  
20 Press Secretary; Brad Grantz, Policy Coordinator, Oversight  
21 and Investigations; Brittany Havens, Legislative Clerk; Sean  
22 Hayes, Counsel, Oversight and Investigations; Alan Slobodin,  
23 Deputy Chief Counsel, Oversight; Tom Wilbur, Digital Media  
24 Advisor; Brian Cohen, Democratic Staff Director, Oversight  
25 and Investigations, and Senior Policy Advisor; Hannah Green,  
26 Democratic Staff Assistant; Elizabeth Letter, Democratic  
27 Press Secretary; Stephen Salsbury, Democratic Special  
28 Assistant; and Matt Siegler, Democratic Counsel.

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|  
29           Mr. {Murphy.} Good morning. I convene this hearing on  
30 the Subcommittee on Oversight and Investigations to review  
31 the implementation of the Patient Protection and Affordable  
32 Care Act.

33           Our witness today is Mr. Gary Cohen, the Deputy  
34 Administrator and Director of the Center for Consumer  
35 Information and Insurance Oversight at the Centers for  
36 Medicare and Medicaid Services. Mr. Cohen, I would like to  
37 read you two quotes from your testimony before the committee  
38 last year. On April 24, 2013, when asked by the ranking  
39 member for benchmarks to measure CCIIO's progress, you  
40 responded: and I quote, ``I think the keys are that we are on  
41 schedule and on track with the IT build that were doing,  
42 which is clearly an important part of this.' ' And then you  
43 added, ``I think it is just important to take a look at each  
44 of the steps along the path and make sure that we are on  
45 track. But I am very optimistic and confident of where we  
46 are at this point.' ' Again, this was on April 24, 2013.

47           Here is a second quote. On September 19, less than 2  
48 weeks before the start of open enrollment, when Dr. Burgess  
49 asked you if open enrollment would be ready on October 1st,

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50 you said: ``Consumers will be able to go online, they will be  
51 able to get a determination of what tax subsidies they are  
52 eligible for, they will be able to look at the plans that are  
53 available where they live, they will be able to see the  
54 premium net of subsidy that they would have to pay, and they  
55 will be able to choose a plan and get enrolled in coverage  
56 beginning October 1st.' ' When pressed further, you  
57 responded: ``I have nothing further to add to my answer.' '

58 Now, those unqualified statements that the exchanges  
59 would be ready by October 1st are now contrasted against what  
60 we have learned through our investigation since the  
61 Healthcare.gov Web site failed on launch.

62 Mr. Cohen, on April 4 and 5, 2013, just 3 weeks before  
63 you told this committee that you did not have any question  
64 about the exchanges being ready on October 1st, the McKinsey  
65 Company briefed you and a number of other members of the  
66 Administration teams on this on a number of risks facing the  
67 Web site and the federal marketplace. Those included late  
68 policy, delayed designs and building time, and a limited time  
69 to test the website. I would like to know why did you feel  
70 confident telling this subcommittee on April 24th that  
71 everything was on track? Similarly, CMS's own emails from

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72 the summer of 2013 show that CMS officials were worried that  
73 Healthcare.gov would ``crash on takeoff'' and yet, you again  
74 told us in September that everyone would be able to go  
75 online, select a plan, learn their subsidy, and enroll  
76 starting October 1st.

77 Mr. Cohen, I thank you for being here today, and I know  
78 the number of times you have made yourself available to  
79 testify to this committee and I do appreciate that. But it  
80 seems like you are faced with two alternatives today: either  
81 you didn't know about the problems with Healthcare.gov when  
82 you testified last year, or you did, and decided not to  
83 inform Congress.

84 Now, this is part of a pattern for this Administration  
85 and the Affordable Care Act that is so disheartening to the  
86 American people: promises made and promises broken. We have  
87 spent over \$600 million on the Healthcare.gov Web site and  
88 the Administration gave absolutely no warnings that a  
89 disaster was approaching, and now we know those warnings were  
90 obviously there.

91 The broken promises don't end there. After years of  
92 saying if you like your plan you can keep it, the president  
93 finally apologized. And what about the \$2,500 in premium

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94 savings the President promised? We don't hear that promise  
95 anymore. And now recent news reports have discussed narrow  
96 provider networks as a consequence of Obamacare. Will  
97 Americans still be able to keep their doctors? And now we  
98 ask, will they be able to afford their deductibles?

99       This hearing is not just about looking backward and  
100 determining who knew what about the Web site. But one  
101 important purpose of this hearing is accountability. So I  
102 would like us to try and start fresh in 2014, but our ability  
103 to do so depends on you explaining fully and honestly what  
104 you knew and what you understood about the development of the  
105 exchanges and Web site as it was happening, and how that  
106 informed your testimony last year to this committee.  
107 Because, as we have often said, this is about more than a Web  
108 site. If people are to trust and rely on this system, and  
109 trust something so critically important to a family as their  
110 own health care, this Administration needs to have an honest  
111 and open dialogue with the public about the status of  
112 implementation. Promises of all is well just don't cut it  
113 anymore.

114       With the start of coverage just a few weeks ago, there  
115 are many important issues to examine about how the exchanges

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116 are operating. If problems are looming, we need to get the  
117 facts on the table and do something about it before it is too  
118 late. Mr. Cohen, I hope you will give complete answers today  
119 to the following questions: Why didn't you tell Congress  
120 last year about the problems with Healthcare.gov? How many  
121 people have actually paid their insurance premiums in the  
122 exchanges? Of those people who have paid their premiums, how  
123 many were uninsured and how many had their plans cancelled?  
124 How much will the taxpayers end up spending on the  
125 Healthcare.gov Web site, and where are you getting the money  
126 for it? News reports have stated that not enough young  
127 people are enrolling. When will we know about the risk  
128 corridors, and whether the federal and state exchanges are  
129 sustainable?

130 [The prepared statement of Mr. Murphy follows:]

131 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|

132           Mr. {Murphy.} So I thank you for being here today, and  
133 I yield now to the ranking member, Ms. DeGette, for 5  
134 minutes.

135           Ms. {DeGette.} Well, thank you, Mr. Chairman, and  
136 welcome, Mr. Cohen, back to this committee.

137           I think, Mr. Chairman, we could probably stipulate to  
138 the fact that Healthcare.gov had a rocky start. There is no  
139 doubt about that. But, you know, I am sitting here thinking,  
140 the longer the Republicans keeping the dead horse about who  
141 knew what, when and all of that, the longer they keep raising  
142 these faux issues like the fact that they say the Web site is  
143 not secure, then I think the worse is going to be for their  
144 constituents because after all, isn't our desire to encourage  
145 people to sign up for health insurance, if they are eligible  
146 for Medicaid, to sign up for Medicaid, if they are eligible  
147 for subsidies, to get those subsidies to help pay for their  
148 insurance?

149           As I hear my colleagues on the other side of the aisle  
150 talk about this, I can't help but wonder if they really do  
151 want their constituents to have insurance. Last week's vote  
152 on the Floor was a good example where we voted on this bill

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153 that said that we were going to have security in  
154 Healthcare.gov. Now, everybody thinks we need to have  
155 security in Healthcare.gov but the clear impression given  
156 during the Floor debate and also the debate in this committee  
157 before that was that somehow Healthcare.gov is not secure  
158 when in fact there hasn't been one breach of Healthcare.gov  
159 and, in the briefing we had, the federal IT people told us  
160 they haven't had any more attempts to breach Healthcare.gov  
161 than any other Federal Government Web site, and of course,  
162 private Web sites, like, for example, Target, are not exempt  
163 from that either.

164       And so I just can't help but think that my colleagues on  
165 the other side of the aisle really don't want to have us  
166 implement this Healthcare.gov or the entire Affordable Care  
167 Act in a reasonable way. They want to chill their  
168 constituents from signing up, and I think that is a darn  
169 shame.

170       The good news is--and believe you me, I was one of the  
171 biggest critics on the implementation of Healthcare.gov on  
172 this side of the aisle. It was rocky. But the good news is,  
173 it does appear now that people are beginning to enroll in  
174 this in a robust way.

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175           Last week, Connect for Colorado, which is our State  
176 site, announced the figures for my State. We are about  
177 halfway through the open enrollment period and already 50,000  
178 Coloradoans have signed up for private insurance on the  
179 exchange and about 90,000 have enrolled in Medicare. So this  
180 is 140,000 people who didn't have health insurance before.

181           Now, this represents real progress. This represents a  
182 family that doesn't have to worry about how it will pay for  
183 treatment if a child gets sick or has an accident. It  
184 represents moms who can get preventive care from breast  
185 cancer screenings to vaccines. It represents small  
186 businessmen and -women who don't have to worry about losing  
187 their livelihood if they have an accident.

188           Now, I am proud of my governor, I am proud of my  
189 legislature, Democrats and Republicans, and I am proud of the  
190 leaders for Connect for Colorado for getting it up and going.  
191 I know we are not out of the woods yet. We are going to  
192 continue to have glitches and we need to address those. But  
193 sitting around and trying to figure out what happened last  
194 fall when everybody admits it was a disaster does not help us  
195 towards fixing this problem in the future.

196           I want to say one last thing. The White House released

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197 enrollment figures for all 50 States earlier this week. The  
198 national numbers mirror what happened in my State. Over two  
199 million people have signed up on the exchanges and four  
200 million people have enrolled in Medicaid. That is six  
201 million people who didn't have insurance before.

202 Now, minority staff released a memo this morning that  
203 showed Affordable Care Act enrollment is ahead of where the  
204 Medicare Part D enrollment was at the time that program went  
205 into effect in 2006. Right now, the Affordable Care Act  
206 enrollment is at 31 percent of projected enrollment with half  
207 the open enrollment period to go, and at this point during  
208 Part D, enrollment had hit only 23 percent of projections,  
209 and Mr. Chairman, I would ask unanimous consent to put that  
210 memo into the record.

211 Mr. {Murphy.} Without objection.

212 [The information follows:]

213 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|

214 Ms. {DeGette.} Thank you.

215 So you know, I didn't vote for Medicare Part D. Most  
216 Democrats didn't. But we worked together to try to make it a  
217 success, and I think that is what we should do here.

218 One of the things I continue to be concerned about with  
219 implementation of the Affordable Care Act and the exchanges  
220 is enrollment of young people. Now, I know everybody says  
221 they will all enroll at the end but I would be interested to  
222 know from the Administration what we are doing to make sure  
223 we hit those targets because the exchanges are not going to  
224 work without them enrolling.

225 So in sum, let us work together to implement this, to  
226 get our constituents enrolled. Let us not sit around griping  
227 about what happened admittedly last year.

228 Thank you, Mr. Chairman.

229 [The prepared statement of Ms. DeGette follows:]

230 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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231           Mr. {Murphy.} The gentlelady yields back. I now  
232 recognize the chairman of the full committee, Mr. Upton, for  
233 5 minutes.

234           The {Chairman.} Thank you, Mr. Chairman.

235           Today we are going to continue our thoughtful oversight  
236 of the President's implementation of the health care law and  
237 its effects on Americans in Michigan as well as across the  
238 country.

239           So Mr. Cohen, we do welcome you back. You have  
240 testified before the committee a number of times and I  
241 appreciate you returning again today. In preparing for  
242 today's hearing, we went back to review the transcripts, as  
243 you would imagine, of your testimony from last year, and when  
244 we asked what to expect at the start of open enrollment on  
245 October 1st, you assured us on two different times, once in  
246 April and again in September, less than 2 weeks before the  
247 launch, that yes, everything was on track. And during your  
248 more than 4 hours of testimony before the committee last  
249 year, there was no mention of the fact that you had been  
250 briefed twice by McKinsey in early April of last year and  
251 warned about the number of risks facing the marketplaces and

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252 the Web site nor was there any elaboration on the fact that  
253 CMS employees were well aware that the Web site build was  
254 riddled with problems, far behind schedule with the October 1  
255 launch in jeopardy.

256 So the purpose of today's hearing is not to rehash every  
257 detail of the failed launch, but to move forward, we have got  
258 to understand what you knew about the status of the Web site  
259 and implementation of the President's law at the time that  
260 you appeared before this committee, looked us squarely in the  
261 eye, and said, of course, everything was on track. It is  
262 time to be candid and transparent with Congress and the  
263 American public.

264 Lots of promises have been made, many have already been  
265 broken. What is next? The only way the public can trust the  
266 health care system and the Administration that is  
267 implementing this law is if Administration officials are open  
268 and transparent about the facts and what the American people  
269 should expect from this law and for their health care moving  
270 forward. Providing facts and specifics is an important first  
271 step toward restoring the credibility that we all want. The  
272 American people deserve the peace of mind that there will be  
273 no more surprises, that the information available is the

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274 entire and true story, and I know that you will try to help  
275 us understand what happened and provide some answers, and I  
276 yield the balance of my time to the vice chair, Dr. Burgess.

277 [The prepared statement of Mr. Upton follows:]

278 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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279 Dr. {Burgess.} I thank the chairman for yielding, and  
280 Mr. Cohen, I too want to welcome you back to the committee,  
281 and I appreciate the time that you devote to our oversight  
282 efforts. But here is the central question: How in the world  
283 can we expect people across this country to trust this  
284 Administration when they have been continually told that  
285 everything will be ready, and in fact it was not.

286 It is pretty clear now that the Administration knew far  
287 more about the concerns prior to the launch of Healthcare.gov  
288 before October 1st and yet you came before us on September  
289 19th, and each time you came to this committee in the past  
290 year, you promised that Healthcare.gov would be functional  
291 October 1st. If I recall your recitation correctly, there  
292 were no contingency plans because none were necessary. You  
293 insisted to subcommittee members less than 3 weeks before the  
294 launch of the federal exchange that everything was on track.  
295 I will stipulate that some parts of Healthcare.gov may be  
296 working now but they are only working now because a glitch  
297 czar had to be appointed after the launch of Healthcare.gov.  
298 I don't know how you feel about that but it upsets me that  
299 you came before this committee and told us everything was

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300 okay. We spent hundreds of millions of dollars. You had  
301 well over 3-1/2 years to get it right, and then we have got  
302 to appoint a glitch czar to sort things out so that people  
303 can actually enroll on Healthcare.gov? The enrollment  
304 numbers, I think, are meager. Perhaps you have a different  
305 story and you will share that with us. But errors, canceled  
306 plans and broken promises, those are just the start.

307 Now we know that your agency, Health and Human Services,  
308 and the White House failed to heed internal warnings about  
309 the lack of readiness of the exchanges. It is my hope that  
310 you came to this subcommittee prepared to answer your  
311 questions. I hope you will set the talking points aside. You  
312 owe this to your superiors at HHS, you owe this so the  
313 Secretary, you owe this to the President, you owe it to the  
314 Congress and, most importantly, you owe it to the American  
315 people.

316 This committee is about oversight. Yes, that requires  
317 that we look in the past. Yes, that requires that we look to  
318 the future. I think the problems of the past dictate to us  
319 that there are going to be significant problems during this  
320 first year of Healthcare.gov and you need to be prepared to  
321 work with this committee to mitigate the damage that is going

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322 to be visited on America's health care system and the

323 American people.

324 Mr. Chairman, I yield back my time.

325 [The prepared statement of Dr. Burgess follows:]

326 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|

327 Mr. {Murphy.} The gentleman yields back. I now  
328 recognize Ms. Castor for 5 minutes.

329 Ms. {Castor.} Good morning, and thank you, Mr.  
330 Chairman, and good morning, everyone.

331 Mr. Chairman, this is our first hearing of the year on  
332 the Affordable Care Act. Last year in this subcommittee and  
333 the Health Subcommittee and the full committee, the majority  
334 held 12 hearings on the Affordable Care Act.

335 The hearings last year often were frustrating because  
336 they were not held necessarily to examine exactly what the  
337 law is doing or to work in a bipartisan fashion to improve  
338 the law. They were part of an effort to criticize the  
339 Affordable Care Act, spread misinformation and build support  
340 for repeal of the Affordable Care Act. The majority's  
341 unrelenting focus on repealing the Affordable Care Act is one  
342 of the reasons I believe why this Congress has been one of  
343 the most least productive in the history of our country.

344 But fortunately, we are at a different place today. As  
345 of today, approximately 10 million Americans have coverage  
346 because of the Affordable Care Act. Over two million have  
347 coverage through private plans sold through the marketplaces.

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348 More than four million have enrolled in Medicaid and now have  
349 access to a doctor or health services that they did not have  
350 before. More than three million young adults age 26 and  
351 under have coverage through their parents' plans, and  
352 millions more have coverage purchased directly from an  
353 insurer. Now, as Ranking Member DeGette explained, the  
354 rollout of Healthcare.gov was anything but smooth, and I  
355 directly expressed my displeasure to President Obama and  
356 Secretary Sebelius. People were relying on us, and moving  
357 forward, and I know there will still be hurdles to overcome  
358 over the next few months but the law is working. Members who  
359 want to repeal the Affordable Care Act will have to explain  
360 to these 10 million Americans why they should lose their  
361 coverage and their new rights and their protections, and  
362 coming from the State of Florida, they are going to have to  
363 explain to my older neighbors, our parents and grandparents,  
364 why they want to take away the improvements in Medicare:  
365 closing of the donut hole, the new preventive care and  
366 wellness visits that are available and the fact that we made  
367 Medicare stronger.

368           The members will have to explain to the 129 million  
369 Americans with preexisting conditions why they do not deserve

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370 the same access to health coverage as everyone else. They  
371 will have to explain to American women why they want to go  
372 back to a world where they could be charged more for the same  
373 coverage as a man, and they will have to explain to people  
374 who work in blue-collar jobs why they should face higher  
375 premiums, and they will have to explain to the millions of  
376 Americans getting coverage for the first time why they would  
377 be better off uninsured. I do not think my Republican  
378 colleagues will be able to make this case.

379       Mr. Chairman, Republican critics of the law were also  
380 incorrect about many things but they were right about one  
381 major fact, that once the Affordable Care Act went into  
382 effect, there would be no turning back. This law is in  
383 effect and it will continue to become a part of the fabric of  
384 this Nation. It will lift millions of American families,  
385 provide economic security. The Civil Rights Act, the Social  
386 Security Act, the original Medicare legislation, all landmark  
387 laws, were enormously contentious in their time. Republican  
388 opponents predicted they would put this Nation on the path to  
389 ruin. They said the Nation was not ready for the changes  
390 that were coming. They said the new rights and protections  
391 the laws guaranteed for our fellow Americans were not

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392 important. And now we cannot imagine our country without a  
393 basic safety net for our seniors or equal rights for all of  
394 our citizens.

395 In years ahead, all the hyperventilating about broken  
396 Web sites, enrollment trajectories and demographic mix will  
397 quickly be forgotten. Instead, we will look back and wonder  
398 how we ever had a health system that spent double what every  
399 other Nation spends per capita while leaving 50 million  
400 uninsured and allowing rampant discrimination against the  
401 people who needed the coverage most.

402 I hope this hearing will be the start of a productive  
403 and cooperative session of Congress, and I hope we can start  
404 to work together on the ACA rather than spending another year  
405 in a never-ending campaign against a law that is doing  
406 enormous good for the American people.

407 I yield back. Thank you.

408 [The prepared statement of Ms. Castor follows:]

409 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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410           Mr. {Murphy.} The gentlelady yields back, so I would  
411 now like to introduce the witness for today's hearing. Gary  
412 Cohen is the Deputy Administrator and Director of the Center  
413 for Consumer Information and Insurance Oversight at the  
414 Centers for Medicare and Medicaid Services. He has served as  
415 General Counsel for the California Health Benefit Exchange  
416 and has served as the Director of the Division of Insurance  
417 Oversight in CCIIO for 2 years prior to becoming the Deputy  
418 Administrator and Director of CCIIO, and I will now swear in  
419 the witness.

420           Mr. Cohen, you are aware that the committee is holding  
421 an investigative hearing, and when doing so, we have the  
422 practice of taking testimony under oath. Do you have any  
423 objection to taking testifying under oath? Thank you.

424           The Chair then advises you that under the rules of the  
425 House, you are entitled to be advised by counsel. Do you  
426 desire to be advised by counsel? In that case, we will swear  
427 you in.

428           [Witness sworn.]

429           Mr. {Murphy.} You are now under oath and subject to the  
430 penalties set forth in Title XVIII, Section 1001 of the

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431 United States Code. You may now give a 5-minute summary of  
432 your written statement, Mr. Cohen.

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|

433 ^TESTIMONY OF GARY COHEN, DEPUTY ADMINISTRATOR AND DIRECTOR,  
434 CENTER FOR CONSUMER INFORMATION AND INSURANCE OVERSIGHT,  
435 CENTERS FOR MEDICARE AND MEDICAID SERVICES

436 } Mr. {Cohen.} Thank you. Good morning, Chairman Murphy,  
437 Ranking Member DeGette and members of the subcommittee. I  
438 appreciate the opportunity to update you on the Affordable  
439 Care Act and health insurance marketplaces and to talk about  
440 the millions of Americans who many for the first time are  
441 able to purchase high-quality affordable health coverage.

442 When I appeared before this subcommittee shortly before  
443 the beginning of enrollment, I said that while we may  
444 encounter some bumps when open enrollment began, we would  
445 solve them. Clearly, the problems we encountered in October  
446 were far worse than I or any of us anticipated. Simply put,  
447 the system did not work nearly as well as it should have or  
448 that we expected that it would.

449 This wasn't a time to get discouraged. It wasn't a time  
450 to give up. It was a time to roll up our sleeves and get to  
451 work and solve the problems, and that is what we did.

452 Since that time, we have fixed Healthcare.gov piece by

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453 piece in a prioritized, metrics-driven manner. The tech team  
454 fixed the site's software and enhanced the site's hardware to  
455 improve its capacity, speed and stability. By the end of  
456 November, Healthcare.gov was able to support more than  
457 800,000 consumer visits per day with a response time of less  
458 than 1 second and an error rate well below 1 percent.

459 Consumers have responded overwhelmingly to the improved  
460 site. Enrollments in the federal marketplace in December  
461 alone represent a sevenfold increase over October and  
462 November combined. By the end of December, nearly 2.2  
463 million people had selected plans from the State and federal  
464 marketplaces.

465 Sometimes we lose sight when we talk about numbers that  
466 are this big, that these enrollments are more than just  
467 numbers. They are individual people, many of whom have not  
468 been able to obtain needed care or had the peace of mind that  
469 comes from having health coverage for years.

470 For example, Nathan Aldridge, a cancer survivor from  
471 Virginia, now has a plan without having to worry about paying  
472 more because of his preexisting condition. He had been  
473 playing for a plan with a \$483 monthly premium and a \$5,000  
474 deductible. Now he has a plan with a \$111 monthly premium

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475 and a \$1,750 deductible.

476       Emily Wright, a university student in Tennessee,  
477 enrolled through the federal exchange, qualified for a  
478 federal subsidy and picked a top-tier plan that will cost her  
479 only \$125 a month. She has been able to get an appointment  
480 with an obstetrics/gynecology practice, the first step before  
481 needed surgery.

482       We hear stories like theirs every day. Because of the  
483 Affordable Care Act, Americans like Nathan and Emily can be  
484 confident that the plans offered in the marketplace are high  
485 quality and affordable.

486       The Affordable Care Act standardizes certain essential  
487 benefits which insurers must offer. These include basics  
488 like doctor's visits, hospitalizations, prescription drugs,  
489 and maternity and newborn care. Marketplace plans are  
490 designed so that consumers can compare plans with similar  
491 levels of coverage and make more informed decisions.

492       Insurers are now prohibited from charging higher  
493 premiums to enrollees because of their health problems and  
494 from charging women more than men, making prices more fair.  
495 At the same time, premium tax credits and cost-sharing  
496 reductions are helping consumers pay for their health care

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497 coverage. Of the nearly 2.2 million marketplace sign-ups so  
498 far, nearly 80 percent of those consumers are receiving  
499 financial assistance.

500 Insurers can no longer refuse to accept consumers  
501 because of a preexisting health condition. With limited  
502 exceptions, plans are required to enroll individuals  
503 regardless of health status, age, gender or other factors.

504 Finally, insurance coverage is there when people most  
505 need it because plans can no longer impose annual or lifetime  
506 dollar limits on essential health benefits. Americans no  
507 longer have to worry about hitting a prohibitive dollar  
508 amount which could force a consumer into bankruptcy or cause  
509 them to have to forego necessary care.

510 The health insurance market in 2014 looks dramatically  
511 than it did in the years before the Affordable Care Act.  
512 Now, as with any change this major, there is bound to be some  
513 disruption, so to ease the transition to the new market, CMS  
514 is working closely with insurers, consumers and other key  
515 stakeholders who are working together to ensure that  
516 consumers have coverage and receive needed medical care.

517 In December, CMS announced a number of steps to help  
518 consumers including requiring insurers to accept payment

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519 through December 31, 2013, for coverage beginning January 1  
520 and giving consumers additional days to sign up for  
521 marketplace coverage. Insurers have also stepped up with  
522 many agreeing to voluntarily extend the deadline for  
523 consumers to pay their first month's premium, and many  
524 pharmacies announced plans to ensure a smooth transition by  
525 providing consumers with transitional supplies of  
526 prescriptions.

527 I continue to believe what I said in September: the  
528 ultimate story of the Affordable Care Act will not be what  
529 happened in the early days that the Web site went live or  
530 even in the first days of January as people used their new  
531 coverage. The lasting legacy will be people like Nathan and  
532 Emily who will be able to get the health care they need and  
533 have the security of knowing they will be able to pay for it  
534 because of the changes made by the law.

535 Thank you, and I welcome your questions.

536 [The prepared statement of Mr. Cohen follows:]

537 \*\*\*\*\* INSERT A \*\*\*\*\*

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|

538           Mr. {Murphy.} I thank the gentleman. The chairman now  
539 recognizes himself for 5 minutes.

540           Mr. Cohen, you testified several times before this  
541 committee that HHS would be ready by October 1. Can you tell  
542 us why you were wrong on that?

543           Mr. {Cohen.} When I testified, Mr. Chair, you referred  
544 to April and in September, and each time I gave you the best  
545 information that I had and gave you truthful testimony based  
546 on the information that I had available to me. It turned out  
547 that the problems that we faced when the Web site went live  
548 were, as I have said and as everyone knows, you know, just  
549 dramatically different and bigger than I think what any of us  
550 expected.

551           As to why we didn't anticipate what was going to happen  
552 when we went live, you know, I am not sure I know all the  
553 answers. I think, you know, some of the people who are  
554 responsible for designing and building the Web site might be  
555 able to give you better answers. I know initially we were  
556 overwhelmed by the volume of people who came in, but as time  
557 went by, that was clearly not the sole source of the problem.  
558 There were other problems as well.

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559           Mr. {Murphy.} But you were there for the briefings, the  
560 McKinsey report, which we discussed in this subcommittee, the  
561 disaster that they talked about to a number of people within  
562 the Administration, so you had that information, but you also  
563 said you were told something otherwise. So who told you  
564 otherwise that things would be fine?

565           Mr. {Cohen.} So may I speak for a moment to McKinsey?  
566 I absolutely attended briefings of the work that the McKinsey  
567 folks did, and there is no question that they identified a  
568 number of risks that they saw back in April, you know,  
569 whether we would be successful come October. At no time did  
570 the McKinsey people say to us, you are not going to make it  
571 or you are not going to be successful. They identified a  
572 series of risks and they identified some steps that they  
573 recommended we take in order to mitigate those risks and  
574 increase the likelihood that we would be successful, and I  
575 think we did those things, and I think that a number of the  
576 concerns that McKinsey expressed, for example, whether the  
577 hub would be working or whether some of the larger States  
578 like New York and California would succeed did not prove to  
579 be a problem. The hub has worked very well, and New York and  
580 California have done very well.

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581           So I think we took very much to heart what the McKinsey  
582 people recommended that we do and we proceeded forward and  
583 tried to, you know, do the best we could to maximize the  
584 likelihood that we would be successful.

585           Mr. {Murphy.} But again, we have looked at the McKinsey  
586 report. It was not subtle. It was strongly worded in terms  
587 of there were serious problems, but in that same month you  
588 came before us and said things were fine, so who on your  
589 staff told you that things were going to be okay? Who  
590 informed you specifically?

591           Mr. {Cohen.} I received regular briefings from the  
592 various parts of CMS that were responsible for--

593           Mr. {Murphy.} Who was it?

594           Mr. {Cohen.} --overseeing the Web site build. The  
595 person that I heard from the most probably was Henry Cao.

596           Mr. {Murphy.} And Henry Cao told you that despite the  
597 briefing from McKinsey that things would be okay?

598           Mr. {Cohen.} Henry Cao gave--you know, we had regular  
599 reports on the status of the build, and certainly when I came  
600 here in September, the testimony that I gave was based on  
601 briefings that I had from Mr. Cao and others as to what the  
602 capability of the site--

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603           Mr. {Murphy.} Did you share with Mr. Cao the McKinsey  
604 briefing?

605           Mr. {Cohen.} I don't know whether he saw the briefing  
606 itself.

607           Mr. {Murphy.} Did you discuss the contents of that with  
608 him?

609           Mr. {Cohen.} I think we talked about the issues that  
610 were raised in the briefing, yes.

611           Mr. {Murphy.} See, I am puzzled, because when Mr. Cao  
612 was here speaking under oath, he said he didn't know anything  
613 about it.

614           Mr. {Cohen.} That is why I say I don't know that we  
615 told him or whether he saw the report itself or that he was--  
616 but we talked about the issues--

617           Mr. {Murphy.} So let me ask this. It was significant  
618 enough that the Secretary said that she hired McKinsey to  
619 give them a briefing and look at this analysis. Very  
620 important, significant problems were identified. They were  
621 not small. But now we are not sure whether or not the key  
622 person who was advising you of this was even told about this  
623 report to identify and what to do about the major problems.  
624 So there is something pretty inconsistent here.

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625           Mr. {Cohen.} Well, I think that we adopted a number of  
626 the recommendations that McKinsey had for us and put into  
627 place a number of things that McKinsey recommended that we do  
628 in order to increase the likelihood of our success, and that  
629 is what I mean. Those things happen. So Mr. Cao was aware  
630 of the things--

631           Mr. {Murphy.} Well, I need to know what specifically,  
632 if you go to the doctor and the doctor says can you tell me  
633 what your specific symptoms and problems are, if you don't  
634 tell the doctor what your problems are, they can't properly  
635 diagnose and treat. So what specifically did you tell Mr.  
636 Cao and what specifically then did he do in response to that?

637           Mr. {Cohen.} I am not going to be able to recall or  
638 tell you exactly what we told Mr. Cao. What I can tell you  
639 is that there were recommendations, for example, in the  
640 report with respect to how we should be organized and some  
641 changes that they recommended that we make in terms of how  
642 the process was managed that we implemented as a result of  
643 the report.

644           Mr. {Murphy.} Thank you.

645           I recognize Ms. DeGette for 5 minutes.

646           Ms. {DeGette.} Thank you very much, Mr. Chairman.

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647           This hearing today, I just noticed this after my opening  
648 statement, is called ``2014: Seeking PPACA Answers.''' So I  
649 would really like to ask you, Mr. Cohen, some questions about  
650 where we go from here.

651           As you acknowledged in your opening statement and your  
652 written statement, the problems with Healthcare.gov were far  
653 greater than ones you anticipated before October 1st, and we  
654 are now well aware of the Administration's efforts to fix the  
655 problems. I am wondering if you can tell me as we sit here  
656 today, January 16th, what problems do you still see with the  
657 federal Web site and what steps is the Administration taking  
658 to remedy them?

659           Mr. {Cohen.} Thank you. We continue to address  
660 specific issues with respect to the way that the site is  
661 functioning, and that effort has not flagged at all. I mean,  
662 it is ongoing. So as we continue to identify any aspects in  
663 the way that the system isn't performing as properly as it  
664 should, whether those be design and architecture or whether  
665 those be software, you know, sort of coding types of problems  
666 that were not, you know, getting the right result, we  
667 continue to address a lot of those issues. The major one  
668 that we are dealing with right now I would say in terms of

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669 big picture has to do with the financial management making  
670 sure that the plans are getting paid. We are using a  
671 mitigating process right now because we don't have full  
672 functionality for that particular process but we are working  
673 to put that in place.

674 Ms. {DeGette.} As we heard in November and December,  
675 the Administration was focusing first on getting people  
676 enrolled and then they were worrying about the back end. So  
677 with that back end, what kind of problems are we still seeing  
678 and what are you doing to try to remedy that?

679 Mr. {Cohen.} Well, right now, payments will be going  
680 out next week for the first time of advanced premium tax  
681 credits to issuers but we are using a process where they are  
682 providing us with the data from the issuers based on their  
683 records as opposed to being able to use the records that are  
684 generated by the FFM, and that more automated process will be  
685 going into place in the next months.

686 Ms. {DeGette.} And are you working, is the  
687 Administration working with the insurers to make that happen?

688 Mr. {Cohen.} Yes, absolutely, and we have actually had  
689 tremendous responsiveness from the insurers and they have  
690 told us that they are very pleased with the way that process

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691 is going. It is not ideal but it will work to get them paid.

692 Ms. {DeGette.} Mr. Chairman, I think that would be a  
693 good follow-up hearing to bring the insurers in and see how  
694 that is working, just FYI.

695 Let me ask you, Mr. Cohen, we have all heard about the  
696 number of people who have signed up both on the State  
697 exchanges in the States like mine that have State exchanges  
698 and also Healthcare.gov. What is your opinion about the  
699 number of people who have signed up and also the age mix?

700 Mr. {Cohen.} So in terms of the number of people who  
701 have signed up, obviously there is no question that we got  
702 off to a slower start than we would have liked and than what  
703 we hoped but we had tremendous response in December and we  
704 are continuing to see very good numbers as we go into  
705 January. I think in terms of the total if we are able to  
706 maintain the pace that we are at now and if we see another,  
707 you know, sort of uptick towards the end of March as everyone  
708 expects because that is the deadline for the end of open  
709 enrollment, we still have almost 3 months to go so I think we  
710 are very encouraged by the enrollments that we are seeing  
711 now. There clearly is tremendous demand for this product.  
712 We saw that from the beginning.

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713 Ms. {DeGette.} But there is also--I will say, though,  
714 because of the glitches with the Web site in the early days,  
715 enrollment has been lower than the Administration had  
716 projected, correct?

717 Mr. {Cohen.} That is true.

718 Ms. {DeGette.} And what about enrollment of younger  
719 people?

720 Mr. {Cohen.} So, you know, we are actually quite  
721 encouraged by the response that we have gotten from younger  
722 people. The percentage of younger people that we reported  
723 this week is actually comparable to the percent of that age  
724 group in the general population so I think that is looking  
725 good. I think--

726 Ms. {DeGette.} If you could just--I am sorry. If you  
727 can just briefly tell me what the Administration is doing to  
728 bump those numbers back up between now and the end of March  
729 both for the general population and also for the younger  
730 enrollees.

731 Mr. {Cohen.} Absolutely. So, you know, I think you are  
732 going to see a stepped-up media campaign. Obviously we as  
733 well as the health insurance companies held back a little  
734 back in the beginning because the site was working well, but

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735 now that it is, I think we will see a significant increase in  
736 that. It is going to be very much targeted at the younger  
737 audience so we have a Magic Johnson ad that is coming out  
738 now. We are going to be advertising during the Olympics.  
739 You know, we are trying to advertise in ways that will--and  
740 through social media as well, ways that are definitely  
741 targeted toward that younger group.

742 Ms. {DeGette.} Thank you very much.

743 Thank you, Mr. Chairman.

744 Mr. {Murphy.} You may want to talk to Jimmy Kimmel  
745 because he is not saying good things about this.

746 Ms. {DeGette.} We can also have ads during the Super  
747 Bowl because I know that will appeal to the Colorado voters.

748 Mr. {Murphy.} That will be costly. There you go.

749 I now recognize Dr. Burgess for 5 minutes.

750 Dr. {Burgess.} Thank you, Mr. Chairman, and Mr. Cohen,  
751 you know I am going to bring this up. I have got to do it.  
752 I need to have you address it.

753 September 19, 2013, I asked you a yes or no question,  
754 will the enrollment process be ready October 1 of this year.  
755 I will remind you of your answer. You said consumers will be  
756 able to go online. They will be able to get a determination

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757 of what tax subsidies they are eligible for. They will be  
758 able to look at the plans that are available where they live.  
759 They will be able to see the premium net of subsidy that they  
760 would have to pay, and they will be able to choose a plan and  
761 get enrolled in coverage beginning October 1st. Do you  
762 recall that exchange, sir?

763 Mr. {Cohen.} I recall it very well.

764 Dr. {Burgess.} Knowing what you know now, would you  
765 like to revise that answer in any way?

766 Mr. {Cohen.} Well, clearly, it was wrong, but it was  
767 also what I believed and what I understood--

768 Dr. {Burgess.} I have got to--

769 Mr. {Cohen.} --based on what I had been told. I would  
770 like to answer your question, if you would permit me.

771 I knew that I was going to be asked that question  
772 obviously when I came here on September 19th and I knew that  
773 it was very close to October 1st, and I was very careful to  
774 get a thorough briefing from the people who are responsible  
775 for overseeing the build of the Web site, and the answer that  
776 I gave you was exactly what they told me our functionality  
777 would be on October 1st, exactly.

778 Dr. {Burgess.} Who told you that exactly?

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779 Mr. {Cohen.} Mr. Cao was in the briefing, among others.

780 Dr. {Burgess.} Well, look, you know, I have just got to  
781 tell you this, and you have heard me say it before and I will  
782 continue to say it in the future. I simply do not understand  
783 why no one has been held accountable for an error that  
784 egregious. If I were you, I would fire someone under me, and  
785 it would have happened in October. If I were the Secretary,  
786 I would have fired you, and that would have happened in  
787 October, and if I were the President, I would be so mortified  
788 and embarrassed by what has been the disaster of my signature  
789 piece of legislation signed into law, I would fire the whole  
790 lot of you.

791 Now, that was the tack not taken--

792 Mr. {Cohen.} But if that had happened--

793 Dr. {Burgess.} I would like to understand why should we  
794 believe you now when nothing you said over the past year,  
795 year and a half has been accurate?

796 Mr. {Cohen.} Because the site is working, Congressman.  
797 Because the site is working. That is why you should believe  
798 me now.

799 Dr. {Burgess.} I would submit--

800 Mr. {Cohen.} And if we had all been fired, it would not

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801 be working.

802 Dr. {Burgess.} --it is not working because it has not  
803 been built on the back end. Provider payments are not  
804 flowing. The subsidies that are supposed to go to the  
805 insurance companies, they tell me are coming as a result of a  
806 paper process that is having to be entered by hand. This  
807 thing is a disaster, and the providers are going to be the  
808 ones who take it on the chin because we are obligated to see  
809 those patients when they show up. No one can verify benefits  
810 at 3 o'clock in the morning. You take care of the problem  
811 after the fact. Who pays the bill? The Secretary said she  
812 would not be responsible for paying those bills, so I ask  
813 you, doctors and hospitals around this country are asking  
814 you, who is responsible for paying those bills?

815 Mr. {Cohen.} The insurance company--

816 Dr. {Burgess.} You haven't built the back end of the  
817 Web site.

818 Mr. {Cohen.} The insurance company that has enrolled a  
819 person is responsible for paying those bills, and the  
820 payments of the tax credits and cost-sharing reductions to  
821 those insurance companies will be flowing next week. They  
822 will begin next week. That is going to happen.

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823 Dr. {Burgess.} And I would submit to you that part of  
824 the Web site has not yet been built and that is going by hand  
825 and is a painfully slow process. I have been told numbers as  
826 low as 5 to 10 percent of those payments are going through.  
827 I would appreciate if you have additional information that  
828 you will make it available to the committee. I hope we will  
829 have an opportunity to discuss that in the future.

830 Mr. {Cohen.} Absolutely.

831 Dr. {Burgess.} As it does concern me a lot. I think  
832 our providers are the ones who are truly at risk from your  
833 mismanagement of this problem.

834 Now, there is something that is receiving a lot of  
835 attention right now. It is the concept of risk corridors and  
836 risk adjustment. Are you aware of that?

837 Mr. {Cohen.} Yes.

838 Dr. {Burgess.} The risk corridor program does not  
839 contain specific appropriation in the law, so are you going  
840 to be seeking an appropriation for the risk corridor language  
841 in the law?

842 Mr. {Cohen.} I am going to have to refer you to the  
843 Office of Management and Budget with respect to those issues.

844 Dr. {Burgess.} Would you be willing to share with us

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845 the ongoing discussions that are happening between you and  
846 OMB on that? Are there emails? Are there memos? Is there  
847 information you can make available to the committee?

848 Mr. {Cohen.} I will certainly take that request back.

849 Dr. {Burgess.} It appears to a lot of us that you are  
850 going to be needing and sending taxpayer dollars in order to  
851 handle this problem of the risk corridors. Can you assure  
852 the committee today that that will not be happening, that  
853 this risk adjustment will be done from within the balances  
854 available in the Affordable Care Act and those amounts that  
855 you are collecting from insurance companies and not come from  
856 the taxpayer?

857 Mr. {Cohen.} I think--I don't have an answer for you  
858 today. I understand it is an issue. We are working with OMB  
859 and I will certainly, you know, work with you and understand  
860 that it is an important issue that you, you know, are  
861 entitled to know about.

862 Dr. {Burgess.} If you have a legal memorandum that has  
863 been prepared for you or your department, will you share that  
864 with the committee?

865 Mr. {Cohen.} That is not a decision I get to make but I  
866 will certainly take your request back. I haven't seen such a

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867 memorandum myself, no.

868 Dr. {Burgess.} You have not?

869 Mr. {Cohen.} At this point, no.

870 Dr. {Burgess.} Do you anticipate seeing one?

871 Mr. {Cohen.} I don't know the answer to that.

872 Dr. {Burgess.} This committee needs that memo, and I  
873 want you to take that request back with you. Again, we will  
874 have an opportunity to talk again, I believe.

875 I yield back, Mr. Chairman.

876 Mr. {Murphy.} Thank you.

877 Mr. Cohen, I want to give you an opportunity to answer  
878 one of Dr. Burgess's questions. Has the part of the Web site  
879 dealing with payments been built or is it yet to be built?

880 Mr. {Cohen.} The automated process for payments is  
881 still being built but we have a process in place that is  
882 working and payments will be going out next week.

883 Mr. {Murphy.} Do you have an anticipated date of when  
884 it is going to be built?

885 Mr. {Cohen.} I don't have an answer to that as I sit  
886 here, no.

887 Mr. {Murphy.} Thank you.

888 Ms. {DeGette.} Mr. Chairman, could we have him

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889 supplement that when he finds out when it will be built?

890 Mr. {Murphy.} Yes, we would like to know that.

891 Ms. Castor, you are recognized for 5 minutes.

892 Ms. {Castor.} Thank you, Mr. Chairman. Good morning,  
893 Mr. Cohen.

894 You know, the headline back home in Florida this week  
895 was, Florida enrollment surges under Healthcare.gov during  
896 October and November. Due to the problems with the Web site,  
897 we only had 18,000 Floridians sign up for coverage. But in  
898 December, we had 140,000 Floridians sign up for coverage.  
899 Florida continues to lead the Nation in enrollment among the  
900 three dozen States that are using the federal marketplace.  
901 So this is good news. In fact, on Monday in Tampa, the mayor  
902 of Tampa, Bob Buckhorn, had a great announcement, and this is  
903 something that other Members of Congress can use and work on  
904 with their elected officials. Mayor Buckhorn announced that  
905 all of the parks and recreation centers in the city of Tampa  
906 would be available to host navigators and assisters sign up  
907 many of our neighbors for coverage. I think this is a very  
908 creative move. Secretary Sebelius gave him a pat on the back  
909 as well.

910 We have got to make it easy for folks to sign up, and

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911 one of the things that is, I guess, a good problem to have  
912 is, we have such a competitive marketplace in the Tampa Bay  
913 area, we have over 100 private insurance plans that people  
914 can examine and see what works best for them. But, you know,  
915 that can be a little daunting for folks as well if they just  
916 go on to--I guess there are people that can go on to  
917 Healthcare.gov and figure it out and analyze it and determine  
918 what works best for them but there are many, many people all  
919 across the country that need to sit down and work with a real  
920 person and sort through those options, understand what the  
921 tax credits do. In Florida, two-thirds of those who are  
922 eligible for coverage will be eligible for the tax credits.  
923 Already, over 80 percent of the people who have signed up  
924 have used those tax credits.

925       What can we do to get more help out on the ground to  
926 help people understand the options?

927       Mr. {Cohen.} So thank you, Congresswoman. I think it  
928 is very important, as you say, to get support from State and  
929 local officials from Congressional offices to help get the  
930 word out, to direct people to assisters who can help them.  
931 There is a Find Local Help section of Healthcare.gov where  
932 people can say, you know, what area they are in and get a

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933 list of the--

934 Ms. {Castor.} But many people, if they don't have a  
935 computer, they don't even know about that.

936 Mr. {Cohen.} Right.

937 Ms. {Castor.} So how are you going to reach them?

938 Mr. {Cohen.} For the people who don't have a computer,  
939 obviously the effort really has to be to bring them in to a  
940 location where, you know, a navigator is working or, you  
941 know, other assisters are available to help them through the  
942 process, and I think, you know, the more assistance that we  
943 can get from people in the community who know these folks  
944 rather than, you know, just coming from the Federal  
945 Government is a big help.

946 Ms. {Castor.} Our community health centers have been  
947 very active, churches. It is really a community-wide effort.  
948 But I appreciated that you said talking about the millions of  
949 folks who have signed up that these are not just numbers,  
950 these are real people, and really, one of the biggest  
951 obstacles right now for many of our neighbors to realize  
952 health care coverage is what Republican governors and State  
953 legislators have done in blocking the Medicaid expansion.  
954 For example, in the State of Florida, we have almost one

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955 million Floridians who are caught, are being blocked, access  
956 to the doctor's office is being blocked just because they  
957 won't accept the \$50 billion available to the State of  
958 Florida over the next 10 years. That is our tax money. We  
959 want that tax money back to work for our neighbors to help  
960 our families get to the doctor's office, create jobs, help  
961 our hospitals.

962 Mr. Chairman, I think we need an oversight hearing on  
963 these States that have blocked Medicaid expansion and what is  
964 going to do to the health care marketplace.

965 Mr. Cohen, what is HHS's plan to continue to work with  
966 States on this issue?

967 Mr. {Cohen.} We certainly, you know, encourage every  
968 State to take up the Medicaid expansion. It is a great deal  
969 for the State. It is a great deal for the people in the  
970 State. It is a great deal for providers in the State who  
971 will have, you know--see a decrease in uncompensated care, a  
972 tax that falls on all of us, and we have been working as  
973 creatively as we can with different States to come up with  
974 different ways of doing this. Some States have some  
975 different approaches that they wanted to take that we have  
976 been working with them on, so we continue to work with all

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977 the States and hope that more will take up the expansion.

978 Ms. {Castor.} Thank you very much.

979 Mr. {Murphy.} The gentlewoman yields back. Now the

980 vice chair of the full committee, Ms. Blackburn, for 5

981 minutes.

982 Mrs. {Blackburn.} Thank you, Mr. Chairman.

983 Mr. Cohen, you just said that your testimony to Mr.

984 Burgess on September 19th was incorrect and you had based it

985 on staff reports. Am I correct in that?

986 Mr. {Cohen.} I said it turned out to be wrong.

987 Mrs. {Blackburn.} Turned out to be wrong.

988 Mr. {Cohen.} It turned out to be wrong.

989 Mrs. {Blackburn.} Let me ask you this then. If you are

990 basing your testimony today on staff reports, how do we know

991 that this is correct?

992 Mr. {Cohen.} I think that there has been an intense

993 focus since October on--

994 Mrs. {Blackburn.} Have you changed your process of due

995 diligence? Are you vetting? Are you questioning?

996 Mr. {Cohen.} I think we are receiving more and more

997 thorough briefings at the leadership level.

998 Mrs. {Blackburn.} How do you know that? If what you

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999 told us on September 19th was wrong, how do you know that  
1000 what you are telling us right now is correct?

1001 Mr. {Cohen.} Well, you know, ultimately, I have to rely  
1002 on the people who work for me. I don't--

1003 Mrs. {Blackburn.} You didn't fire anybody then. Are  
1004 you watching it more closely now?

1005 Mr. {Cohen.} I think we are having regular and very  
1006 detailed briefings on--

1007 Mrs. {Blackburn.} Okay.

1008 Mr. {Cohen.} And we also brought in, you know, what we  
1009 sort of call the general contractor, the QSSI company that  
1010 was an existing contractor on the project.

1011 Mrs. {Blackburn.} Do you want to quantify those  
1012 briefings for us as you submit things about the Web site and  
1013 when it is going to be due? Why don't you let us know what  
1014 briefings you are having?

1015 Also, I want to ask you one thing real fast. You said  
1016 the Web site is fixed. Can you define ``fixed?''

1017 Mr. {Cohen.} I think the Web site is fixed in the sense  
1018 that we are no longer having problems that we had creating  
1019 accounts in the beginning. The responsiveness of the site--

1020 Mrs. {Blackburn.} So it is not 100 percent operational,

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1021 it is a qualified fix?

1022 Mr. {Cohen.} That is true.

1023 Mrs. {Blackburn.} Okay. So it is fixed as an amoeba,  
1024 and that is going to change as you come back to us.

1025 Let me move on. You had three promises in Obamacare.  
1026 It was built on three promises. It was going to save  
1027 families \$2,500 a year, and the second two promises, one, if  
1028 you like your plan, you can keep it, and if you like your  
1029 doctor, you can keep it. So let me ask you this. Since the  
1030 President promised that the average family would reap a  
1031 premium decrease of \$2,400 a year under the law, has that  
1032 happened?

1033 Mr. {Cohen.} Well, I am not sure that is what the  
1034 President said.

1035 Mrs. {Blackburn.} Yes or no. Oh, yes, he did say it.

1036 Mr. {Cohen.} I am not sure that is what the President  
1037 said.

1038 Mrs. {Blackburn.} Yes, sir, he did say that.

1039 Mr. {Cohen.} Many Americans are able to obtain better  
1040 coverage at lower costs than--

1041 Mrs. {Blackburn.} Mr. Cohen, that is not what the  
1042 President said, and I ask for a yes or no answer.

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1043           Let me move on. The President said if you like your  
1044 plan, you can keep it. Has he kept that promise?

1045           Mr. {Cohen.} The law permitted insurance companies to  
1046 maintain grandfathered plans in effect. That was their  
1047 decision whether to continue with those plans or to--

1048           Mrs. {Blackburn.} No, sir, that was not the promise.  
1049 The President even apologized for this, and he offered some  
1050 enforcement relief so that these people could keep the plans  
1051 they liked. Is that correct?

1052           Mr. {Cohen.} I was about to say that not all Americans  
1053 were able to keep their plans because of the decisions that  
1054 the industry had made, and so we announced a transitional  
1055 policy that enabled more of the plans to stay in effect.

1056           Mrs. {Blackburn.} How long will that transitional  
1057 process last? A year, 2 years, forever?

1058           Mr. {Cohen.} As of now, what we have announced so far  
1059 is it is for a year.

1060           Mrs. {Blackburn.} You know, a lot of those people  
1061 couldn't keep their plans, and you talked about an Emily from  
1062 Tennessee. Let me tell you about another Emily from  
1063 Tennessee. Emily lives in Pulaski. Emily had coverage  
1064 because Emily has lupus, and guess what? Under Obamacare,

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1065 her plan was canceled. Emily doesn't have health insurance  
1066 right now. She is having a tough time getting it under  
1067 Obamacare. I am having her in as my guest for the State of  
1068 the Union. Maybe you can help Emily work this out, Mr.  
1069 Cohen, because your promises that were made by you and this  
1070 Administration have not been kept, and then you want to give  
1071 us a qualified definition of ``fixed'' and you are still  
1072 depending on your staff, so you all are just running in  
1073 circles, and you cannot give us definitive answers.

1074       So let me ask you this. Emily in Pulaski, she had a  
1075 doctor she liked. Is she going to be able to keep that  
1076 doctor even though she has no insurance and because of  
1077 Obamacare her insurance was canceled and she is trying to be  
1078 treated for lupus and work 40 hours a week?

1079       Mr. {Cohen.} You know, if you will get us information  
1080 about--if Emily is, you know, interested in talking to  
1081 somebody from CMS who can help her understand what her  
1082 options are--

1083       Mrs. {Blackburn.} I appreciate that very much.

1084       Mr. {Cohen.} We would be happy to do that. We are  
1085 doing--

1086       Mrs. {Blackburn.} Because she is a classic victim of

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1087 what has happened when the Federal Government stepped in and  
1088 said all these plans that you have that work for you, that  
1089 fit for you, we are not going to let you keep them because we  
1090 the Federal Government think we know better how you, Emily,  
1091 can handle your lupus. Now, that is what you have done to  
1092 the American people, and when you come in here, you give us  
1093 misinformation, and then when we ask you a question, you  
1094 cannot be specific.

1095 Mr. Cohen, I agree with Dr. Burgess. You ought to be  
1096 fired.

1097 Mr. {Murphy.} The gentlelady's time is expired. I  
1098 recognize now the gentleman from Vermont, Mr. Welch, for 5  
1099 minutes.

1100 Mr. {Welch.} Thank you, Mr. Chairman.

1101 Mr. Cohen, there are a lot of things in the Affordable  
1102 Care Act but many of those provisions are about consumer  
1103 protections to ensure that Americans do have a diverse choice  
1104 of health care providers. But as with many new laws, there  
1105 are some wrinkles in the implementation and some disagreement  
1106 between--debate about Congressional intent, and I wanted to  
1107 ask you about one of those with respect to the ACA.

1108 I have been hearing from some providers, and I know some

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1109 of my colleagues have been hearing the same concerns about  
1110 the interpretation of the provider non-discrimination  
1111 provision in Section 2706 of the Public Health Service Act,  
1112 and specifically, what some of these providers are telling me  
1113 is that your agency's sub regulatory guidance, in their view  
1114 and in the view of many legislators, is inconsistent with the  
1115 statute and legislative intent, and the concern is this, that  
1116 the guidance could lead in fact to discrimination against  
1117 some providers by health insurers, which this provision was  
1118 designed to prevent. Are you aware of these concerns? And  
1119 my question is, what are your plans to address them and to  
1120 ensure that the statute is implemented as intended?

1121 Mr. {Cohen.} So thank you, Congressman, and yes, I am  
1122 aware of those concerns. I have had meetings with a number  
1123 of provider groups who have expressed the concern that you  
1124 have raised. Frankly, it has been a while since we looked at  
1125 that issue so what I would ask is that we could have folks,  
1126 you know, talk to you and your staff and move forward to  
1127 understanding what the concerns are and seeing whether there  
1128 is something we can do to clarify the guidance so that it--so  
1129 that we make sure that there isn't discrimination, which  
1130 clearly is what the law--

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1131           Mr. {Welch.} Well, that would be helpful, and there may  
1132 be some colleagues on the other side of the aisle as well who  
1133 are hearing some of these concerns, so I would welcome the  
1134 opportunity to follow up with your agency and try to work  
1135 this out to make certain that we stay on that intent that  
1136 there not be discrimination as to providers.

1137           Mr. {Cohen.} We would be happy to do that.

1138           Mr. {Welch.} Thank you. And just a couple of things.  
1139 You know, one of my concerns from the very beginning is, we  
1140 have got to get health care costs down. I don't care how we  
1141 pay for it, whether it is employer based, taxpayer based,  
1142 individual based. If the cost is going up a lot faster than  
1143 wages, profit and growth, we are just not going to have a  
1144 sustainable and affordable system, and what we are learning  
1145 now is that Medicare spending is growing slower than the  
1146 inflation rate. This is recently, and that is a welcome  
1147 development, that the program spent only .7 percent more per  
1148 beneficiary in 2012 than in 2011. Five years ago, that  
1149 annual increase was 5.4 percent. Overall, just an overall  
1150 global health care spending, the rate of increase has slowed.  
1151 It was 3.7 percent in 2012, less than half of the growth year  
1152 a year ago. Two questions. One, do you attribute any of

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1153 this to the law? And number two, what are the implications  
1154 for the deficit over a 10- to 20-year period?

1155 Mr. {Cohen.} So think that the law does contain a  
1156 number of provisions that are attacking the question of  
1157 health care costs. I think that that is an issue that we  
1158 need to continue to work on, and I think that the law does  
1159 give us some tools to continue to do that. I look forward to  
1160 using our process of certifying qualified health plans going  
1161 forward. We were quite liberal, I guess is the word I would  
1162 use. We sort of took them all, you know, the first year to  
1163 get the market up and running, but I think going forward we  
1164 can at least look at what we can do to encourage health  
1165 insurance companies to work to keep costs down, and  
1166 certainly, you know, we know that health expense is a huge  
1167 part that the American economy and Federal Government spends  
1168 so as we are able to attack that problem, it will have a  
1169 great positive impact on spending and the deficit going  
1170 forward.

1171 Mr. {Welch.} Yield back.

1172 Mr. {Murphy.} The gentleman yields back. I now  
1173 recognize Dr. Gingrey for 5 minutes.

1174 Dr. {Gingrey.} Mr. Cohen, thank you for being with us

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1175 once again. I asked you the last time you were here whether  
1176 you had concerns that young people would not sign up for  
1177 Obamacare and would cause an increasing cost to the rest of  
1178 the risk pool in the following years. You responded that  
1179 your research--this is a quote--`research shows that most  
1180 people want health care and the barrier has been the cost,'  
1181 and that you are looking forward to people including young  
1182 people enroll in coverage.

1183         With the latest figures showing that young people are  
1184 enrolling at a much lower rate than you had originally  
1185 anticipated, are you now worried, are you still worried that  
1186 premiums will increase next year, that it is not just the  
1187 natural tendency for young people, indeed, for all of us to  
1188 procrastinate that there are some other concerns such as  
1189 maybe these overwhelming number of mandates which we knew 10  
1190 years ago were driving up the costs of health insurance in  
1191 the individual States, probably all 50 States, including mine  
1192 of Georgia. We knew these age banding rules that were put in  
1193 Obamacare rather than, say, five to one maximum premium  
1194 increase for older people compared to younger is now three to  
1195 one. Community ratings, you know, these things are there,  
1196 and I am real concerned. Do you continue to be concerned

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1197 about that?

1198           Mr. {Cohen.} Well, we certainly, you know, want to do  
1199 everything we can to encourage, you know, all Americans and  
1200 in particular young Americans to get health care. I think it  
1201 is important to keep in mind that the risk pool is not just  
1202 the risk pool in the marketplaces, the risk pool is in the  
1203 entire market, and so when you have, say, three million young  
1204 people who have been able to get health coverage on their  
1205 parents' plans, those are not necessarily in the marketplace  
1206 but those are three million young Americans who didn't have  
1207 insurance before who do have insurance and are part of the  
1208 risk pool.

1209           I also would just point to a recent study by the Kaiser  
1210 Family Foundation, which actually said that a reduction in  
1211 the percentage of people, young people who come into the risk  
1212 pool will--is--really will have an impact on health care  
1213 premiums that is pretty modest.

1214           Dr. {Gingrey.} Of course, some of that is anecdotal. I  
1215 understand what you are saying.

1216           But let me move to my next question. You know, I am  
1217 concerned, I have heard that navigators are actually going  
1218 door to door, and this came up last time too, and you said

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1219 that navigators would not be going door to door. They are.  
1220 And if you recall during that same hearing, you told us, the  
1221 subcommittee, that you would be ``issuing instructions to  
1222 navigators that they should not be going door to door.'' Did  
1223 you issue these instructions?

1224 Mr. {Cohen.} Yes, we have, and if you aware of  
1225 instances where navigators who are, you know, our grantees  
1226 are going door to door, we certainly want to hear about  
1227 those.

1228 Dr. {Gingrey.} Well, I thank you, because I am aware,  
1229 and I would like to ask staff to put up a brief clip of a  
1230 video right now in regard to that since you asked me to show  
1231 you some evidence.

1232 [Video shown.]

1233 Dr. {Gingrey.} Okay. That is good.

1234 Mr. Cohen, what do you say to that?

1235 Mr. {Cohen.} I had not seen that before, and we will  
1236 look into it. Thank you for calling it to our attention.

1237 Dr. {Gingrey.} Well, I hope you will look into it. I  
1238 mean, some of my colleagues, we are very strong in saying  
1239 that you should be fired. I don't know. My dad told me one  
1240 time when I was in college and my grades came in and they

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1241 weren't so good, and I said Dad, I am doing the best I can,  
1242 and he said son, unfortunately, your best just isn't good  
1243 enough. I am not calling for you to be fired but, you know,  
1244 we are concerned. You have a big job. You have got a huge  
1245 responsibility, and you know that and we know that, and, you  
1246 know, back to the drawing board, you have got to do better,  
1247 absolutely.

1248           With that, Mr. Chairman, I yield back.

1249           Mr. {Murphy.} Mr. Yarmuth, you are recognized for 5  
1250 minutes.

1251           Mr. {Yarmuth.} Thank you, Mr. Chairman.

1252           Mr. Chairman, welcome back, and it is good to see you  
1253 again. I would like to start off by getting something  
1254 clarified for the record. This relates to Ms. Blackburn's  
1255 questioning. It is my recollection that what the President  
1256 said was that after the Affordable Care Act was implemented,  
1257 that insurance premiums, people would save \$2,400 a year as  
1258 opposed to what they would have been spending, compared to  
1259 what they would have been spending if it weren't for the  
1260 passage of the Affordable Care Act. Is that your  
1261 recollection of what he had said?

1262           Mr. {Cohen.} That is my understanding of what he said,

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1263 yes.

1264 Mr. {Yarmuth.} Not that people's insurance would cost  
1265 \$2,400 less?

1266 Mr. {Cohen.} That is my understanding, correct.

1267 Mr. {Yarmuth.} And in fact, as has been alluded to  
1268 earlier in the various questioning, health care costs are  
1269 rising at a much lower rate than they have historically. So  
1270 while the numbers may not be precise, there is evidence to  
1271 suggest that the President was actually correct in that  
1272 insurance would have cost more if it weren't for the  
1273 Affordable Care Act.

1274 Mr. {Cohen.} I think there is no question about that,  
1275 and I think it is also true that many Americans are seeing  
1276 actual reductions in what they are paying over what they were  
1277 paying, not every American but many Americans are.

1278 Mr. {Yarmuth.} Right. Let us talk about the enrollment  
1279 history because, first of all, it gives me an opportunity to  
1280 boast about my State, Kentucky, which is widely recognized as  
1281 having had one of the most successful rollouts of the  
1282 Affordable Care Act. Currently, the numbers are, in a State  
1283 of 4.4 million people, 778,000 visitors to Kynect, our Web  
1284 site, 123,000 plus have enrolled in either Medicaid or

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1285 private plans. Five hundred and fifty-nine thousand  
1286 Kentuckians have been screened to determine whether they were  
1287 eligible for either Medicaid or subsidies under private  
1288 insurance, and many of those have not yet selected their  
1289 plan, even though they have been told that they qualify for  
1290 private insurance, and 1,283 small businesses--this is as of  
1291 January 2nd--have started the process to enroll their  
1292 employees as well. So we are talking about already have  
1293 insured about 20 percent or more of our entire uninsured  
1294 population in just over half the--well, this would have been  
1295 exactly half the enrollment period.

1296         And by the way, 40 percent of those are under 35, so in  
1297 terms of Kentucky's experience, I think there is reason to  
1298 be, as you said, optimistic that going forward, we will have  
1299 adequate numbers of young people in the risk pools and we  
1300 shouldn't be too concerned yet about that.

1301         But a couple weeks ago, in one of the major national  
1302 media, there was a chart that actually broke down the  
1303 enrollments according to three categories of States. They  
1304 had the 14 States and the District of Columbia, which had  
1305 both expanded Medicaid and set up their own exchanges, States  
1306 that have expanded Medicaid using the federal exchange, and

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1307 then States that had not expanded Medicaid, and while I  
1308 didn't do the math, it was pretty clear that at least two-  
1309 thirds and maybe even 75 percent of all the enrollments, the  
1310 six million or so enrollments, were in those 14 States plus  
1311 the District where there was concerted government support for  
1312 the program.

1313         So I would like you to comment that and whether you are  
1314 seeing that the degree of enrollment seems to be correlated  
1315 to the degree of support at the State and local level for the  
1316 program.

1317         Mr. {Cohen.} I think that is absolutely right, and it  
1318 is true for many reasons. Kentucky is a great example where  
1319 Governor Beshear has been just a stalwart advocate for health  
1320 care reform and for the Kentucky marketplace and getting it  
1321 going. I think that contributes to the success that those  
1322 States have had in terms of developing their marketplace and  
1323 their IT systems. If the administration in the State is  
1324 solidly behind that, it helps. It certainly helps with the  
1325 outreach. It helps with, you know, sending out positive  
1326 messages to people and to the community of how important this  
1327 is and what a great benefit this is for people, so I think  
1328 there is no question.

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1329           Mr. {Yarmuth.} Now, we saw video there of navigators  
1330 going door to door. There is another side of that coin as  
1331 well, and I know I have talked to some people, for instance,  
1332 in Florida where they have actually been handing out flyers  
1333 discouraging people from signing up. Have you seen much  
1334 evidence that there is a concerted effort to actually  
1335 discharge people from exploring their options under the  
1336 exchanges?

1337           Mr. {Cohen.} You know, I have heard some of that. I  
1338 wouldn't be able to say how extensive it is. I think  
1339 obviously it is very unfortunate that anybody would try to  
1340 discourage people from taking advantage of an opportunity to  
1341 get health care.

1342           Mr. {Yarmuth.} Just the last question: Is there any  
1343 effort in your organization to try to find out or get  
1344 evidence as to whether that is happening or not? Because  
1345 that would, I think, be of interest to us.

1346           Mr. {Cohen.} I don't know that we are investigating  
1347 that within CCIIO, no.

1348           Mr. {Yarmuth.} Thank you. I yield back.

1349           Mr. {Murphy.} Thank you. I now recognize Mr. Olson for  
1350 5 minutes.

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1351           Mr. {Olson.} I thank the Chair, and welcome, Mr. Cohen.  
1352 I hope you had an enjoyable holiday season like I did with my  
1353 family.

1354           Mr. {Cohen.} Thank you.

1355           Mr. {Olson.} My first question is about a thing called  
1356 the Federally Facilitated Exchange User Fees. Are you  
1357 familiar with that fee, sir?

1358           Mr. {Cohen.} Yes.

1359           Mr. {Olson.} Okay. So as you know, that is a fee that  
1360 is imposed upon States, of the providers that have not chosen  
1361 to create their own health care plan and have chosen to be in  
1362 the federal health care plan like my home State of Texas, and  
1363 is that required under law under the Affordable Care Act,  
1364 that fee?

1365           Mr. {Cohen.} I think it is authorized by the law, and  
1366 we set the fee on insurance companies based on the premium  
1367 that they get in the market.

1368           Mr. {Olson.} Would it surprise you that HHS rule in  
1369 November of 2012 authorized that fee, created that fee?

1370           Mr. {Cohen.} Yes, we issued a rule that created--that  
1371 implemented that provision.

1372           Mr. {Olson.} Is it 3.5 percent?

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1373 Mr. {Cohen.} Yes.

1374 Mr. {Olson.} Is the Administration fully using that  
1375 fee? I mean, do the plans and States have to cover some  
1376 slack?

1377 Mr. {Cohen.} I don't believe that the amount of that  
1378 fee will fully cover the cost of operating the Federally  
1379 Facilitated Marketplace. I think--I don't think it is going  
1380 to be enough to pay all of the costs of running the  
1381 marketplace.

1382 Mr. {Olson.} So you are tapping the resource of the  
1383 private sector, the States to pay the shortfall from this fee  
1384 that is not getting the job done, correct?

1385 Mr. {Cohen.} No, no. We are tapping resources from  
1386 within, you know, our budget, but the fee is the fee.

1387 Mr. {Olson.} Okay. And the fee is authorized for one  
1388 year. Do you expect to extend it next year?

1389 Mr. {Cohen.} Yes, I expect there will be a fee next  
1390 year.

1391 Mr. {Olson.} Okay. My second line of questions are  
1392 about the navigators, and as you know, that video from my  
1393 colleague, Mr. Gingrey, was pretty damning. I mean, you  
1394 recall when I asked you when you were here September 19th

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1395 about the navigators back home in Texas, that they were  
1396 having voter registration cards going door to door, and you  
1397 said, and this is a quote, about the navigators: ``We will  
1398 be issuing instructions to navigators that they should not be  
1399 going door to door.''

1400 My question is, you know, this is serious. Have you  
1401 issued those instructions? Yes or no.

1402 Mr. {Cohen.} Yes.

1403 Mr. {Olson.} Can we get a copy of those instructions?

1404 Mr. {Cohen.} I am sorry?

1405 Mr. {Olson.} May we get a copy of those instructions so  
1406 we can see them?

1407 Mr. {Cohen.} Sure. I can go back and tell you how we  
1408 communicated that. I know we have regular communications  
1409 with the navigators and we put out that information to them,  
1410 that that was something that they were not supposed to go  
1411 door to door to enroll people. They could drop off  
1412 information but they were not supposed to go door to door to  
1413 enroll people.

1414 Mr. {Olson.} We have heard stories from New York and  
1415 Florida and the New York Times that people, all the fraud  
1416 that is coming out with these navigators. What have you

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1417 done, the agency, to address these fraud cases to make sure  
1418 fraud doesn't happen? Because it is a big window of  
1419 opportunity for people who want to do harm.

1420 Mr. {Cohen.} Any situation that we have learned about  
1421 that involves any misconduct by a navigator, we have  
1422 responded to. We have--including requiring individuals that  
1423 were involved to be dismissed and not to serve as navigators,  
1424 and including issuing corrective action plans to any  
1425 navigator organizations that if we feel that they are not  
1426 supervising their employees adequately.

1427 Mr. {Olson.} My final question is about the disastrous  
1428 rollout of Obamacare and the problems that continue. Delays  
1429 and misinformation happened and are happening today all over  
1430 America. For example, I got enrolled in the exchange here,  
1431 the D.C. public, the little, small business chains, my staff  
1432 as well. My wife called up last week trying to make sure one  
1433 doctor we like, we could keep this doctor, a specialist. It  
1434 took her 30 minutes to talk to somebody on the phone, and she  
1435 was asked to read her new information. She got her new Care  
1436 First card there, read it proudly, and they said, we have no  
1437 record of that. So she had to get the old card and work  
1438 through this agency to be confirmed that yes, we could keep

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1439 that doctor on our plan.

1440 And so my question, given this disastrous rollout and  
1441 the continued problems, have you ever been part of a  
1442 conversation or debate or discussion about delaying the  
1443 launch or putting a hold on it with all these problems? Any  
1444 discussions? Have you ever been part of that?

1445 Mr. {Cohen.} No.

1446 Mr. {Olson.} No. Okay. I yield back the balance of my  
1447 time. Thank you.

1448 Mr. {Murphy.} Thank you. Mr. Green, you are recognized  
1449 for 5 minutes.

1450 Mr. {Green.} Thank you, Mr. Chairman, and again,  
1451 welcome back, Mr. Cohen. I was shocked to see the news  
1452 report in New Orleans, because in Houston, our navigators do  
1453 not go out and go door to door. We do have nonprofits that  
1454 are not federally funded who are going in, and I am  
1455 encouraging them to come into our district to go out and let  
1456 folks know they have this ability to do it, but the federal  
1457 navigators we have, now, they will come out to someone's  
1458 house but it will be a request or because they need to  
1459 somebody to help with the family. So I am glad you are going  
1460 to investigate that happening because I want navigators

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1461 actually helping people do the paperwork.

1462 As one who supported the Affordable Care Act and  
1463 continues to, we need the law, and I would love our committee  
1464 to be able to work on it and fix some of the flaws that we  
1465 have in that we have discovered, but I am pleased with the  
1466 enrollment increases in the last few weeks. HHS released  
1467 them earlier this week, and we know that nearly 2.2 million  
1468 have signed up for the private insurance plans through the  
1469 federal and State marketplaces as of December 28th. Four  
1470 million more were signed up for Medicaid, and let us not  
1471 forget that three million adults under 26 are still being  
1472 able to get insurance through their parents.

1473 Do these enrollment estimates sound accurate to you that  
1474 we received?

1475 Mr. {Cohen.} Oh, yes, I am sure they are as accurate as  
1476 we can make them.

1477 Mr. {Green.} They are not as much as we would like, and  
1478 I know the Administration, but I have a memo from my  
1479 Democratic staff on our committee that puts these numbers in  
1480 context. Enrollment in the Affordable Care Act exchanges is  
1481 ahead of the Part D enrollment at a similar time in 2006.  
1482 Republicans then called Part D a success. Now they insist

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1483 the Affordable Care Act is a failure. We still have a lot  
1484 more work to do in the months ahead but there is no doubt  
1485 that a lot of people are finding access to quality,  
1486 affordable health care. I hope my Republican colleagues will  
1487 sit down and work legislation that will fix some of the  
1488 problems we have because nothing Congress ever passes is  
1489 perfect, and we know that, and particularly with this.  
1490 Instead of just throwing rotten apples, maybe they should  
1491 look back on what happened in 2003 when we passed the  
1492 prescription drug plan that I didn't vote for but I was also  
1493 helping my seniors sign up for it and encouraging people to  
1494 do it, even though I thought the law was flawed in 2003.  
1495 Some of it has been fixed by the Affordable Care Act but it  
1496 has--you know, we want to make sure those folks get it, and  
1497 that is what amazes me.

1498         Mr. Cohen, based on Massachusetts' experience with  
1499 implementing health reform, what would you expect enrollment  
1500 numbers to look like over the next few months?

1501         Mr. {Cohen.} You know, I think we are very encouraged  
1502 by what we saw in December. I think we are encouraged by the  
1503 tremendous interest that there remains in the plan. Clearly,  
1504 Americans are now very much aware of Healthcare.gov as a

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1505 result of what has happened over the last few months, and I  
1506 think everyone expects that as we move toward the--you know,  
1507 we still have, you know, 2-1/2 months left to the open  
1508 enrollment period and I think everyone expects as we get  
1509 towards the end of March when it is the real deadline, we  
1510 will see another real uptick in the number of people  
1511 enrolling, and if that happens, I think we will have some  
1512 very good total enrollment numbers by the end of the period.

1513         Mr. {Green.} Well, we know that in the federal  
1514 exchanges, seven times of people signed up in December as did  
1515 in October and November. Frankly, part of it is because of  
1516 the Web site, and a lot of have concerns because that Web  
1517 site was down. We did an event in Houston in the middle of  
1518 November and we actually had about 800 paper applications,  
1519 and we had plenty of applications--I know there was an issue--  
1520 --we had paper applications both in Spanish and English that  
1521 were used. But that is not the way we can get to the numbers  
1522 we need. The Web site has to work.

1523         Finally, can you talk about outreach plans the  
1524 Administration has in place to ensure that as many people as  
1525 possible learn about the signup for the new health coverage  
1526 during the remainder of the enrollment period?

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1527           Mr. {Cohen.} I think we will be seeing significantly  
1528 more paid media. I know there is a plan, as I mentioned, to  
1529 advertise during the Olympics and other events that are  
1530 particularly geared toward, you know, younger people,  
1531 sporting events and those kinds of things. I know the social  
1532 media activities are very much picking up, and I think from  
1533 what I am hearing, we are going to be seeing very significant  
1534 investment by the private health plans in marketing and  
1535 advertising as well. A number of them sort of held back  
1536 because of the issues early on with the Web site, but now  
1537 that they see the enrollments are coming through, I think we  
1538 will see significant, you know, investment on outreach on  
1539 their part as well.

1540           Mr. {Green.} Thank you, Mr. Chairman.

1541           Mr. {Murphy.} The Chair now recognizes Mr. Griffith for  
1542 5 minutes.

1543           Mr. {Griffith.} Thank you, Mr. Chairman.

1544           Mr. Cohen, thank you for being here. In your responses  
1545 to Ms. Blackburn, you indicated that many Americans have  
1546 better plans at a lower cost. Do you recall indicating that  
1547 to her?

1548           Mr. {Cohen.} Yes.

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1549 Mr. {Griffith.} Under oath and in your sworn--

1550 Mr. {Cohen.} Yes. Many Americans have better coverage  
1551 than what they had before and it is costing them less. I  
1552 think I mentioned at least one of them, you know, in my oral  
1553 testimony.

1554 Mr. {Griffith.} Yes, you did, and you actually  
1555 mentioned a couple, one of them from my district, and I  
1556 understand that.

1557 Also, you would have to acknowledge under oath that many  
1558 Americans have lesser coverage at a greater cost. Isn't that  
1559 true?

1560 Mr. {Cohen.} No, that is not what I said. What I said  
1561 was--

1562 Mr. {Griffith.} It isn't what you said. I am asking--

1563 Mr. {Cohen.} For some--

1564 Mr. {Griffith.} Yes or no. I am asking you a question  
1565 under oath.

1566 Mr. {Cohen.} I don't believe--

1567 Mr. {Griffith.} Do you know that many Americans have  
1568 lesser coverage under the Affordable Care Act at a greater  
1569 cost than they had before? Isn't that true?

1570 Mr. {Cohen.} No, I don't know that.

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1571 Mr. {Griffith.} You don't know that? Well, let me tell  
1572 you, I received an email today from a constituent of mine who  
1573 I know very well. His premiums in March are going to triple,  
1574 and his deductible is doubling. That is lesser coverage at a  
1575 greater cost. So there is one.

1576 I will tell you that I have received numerous  
1577 communications from members of my district, people who live  
1578 in my district, along those lines and yes, there are some  
1579 winners but there are also many losers, and it shocks me that  
1580 you cannot acknowledge that here today when you are  
1581 testifying under oath in front of this committee. There are  
1582 losers under Obamacare, aren't there?

1583 Mr. {Cohen.} Can I answer?

1584 Mr. {Griffith.} Well, it is a yes or no. You know that  
1585 there are losers under Obamacare, do you not?

1586 Mr. {Cohen.} If I am not allowed to answer, then--

1587 Mr. {Griffith.} The answer is either, yes, you know  
1588 that there are losers, or no, you don't know that there are  
1589 losers. It is a yes or no, sir.

1590 Mr. {Butterfield.} Will the gentleman yield?

1591 Mr. {Griffith.} I will not yield. The witness is not  
1592 being responsive.

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1593 Mr. {Butterfield.} I think you need to define

1594 ``losers.''

1595 Mr. {Griffith.} A loser is one who has to pay more for  
1596 coverage that is lesser, and I just gave him an example but  
1597 he won't acknowledge that he knows of anybody in the--do you  
1598 know of anybody in the United States in that circumstance,  
1599 sir? Yes or no.

1600 Mr. {Cohen.} I am sure there is anybody in the United  
1601 States in that circumstance, yes.

1602 Mr. {Griffith.} And do you acknowledge that you have  
1603 read the reports on other people who have had some successes  
1604 who are winners under this, you have also read reports in the  
1605 media of people who are losers under Obamacare, have you not?

1606 Mr. {Cohen.} The problem that I have, Congressman, is  
1607 that I don't know what the--all the options that might be  
1608 available to that person. So it is difficult for me to  
1609 answer without knowing the full situation of what might be  
1610 available to that person. I understand that there are people  
1611 who had coverage and received a notification from their  
1612 insurance company that they were being put into a different  
1613 plan that costs more. Absolutely that has happened.

1614 Mr. {Griffith.} And you have reason to believe that

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1615 those people are paying more and receiving lesser coverage?

1616 Mr. {Cohen.} Well, I don't--but I don't know the  
1617 details of what the plan is that they were in, what the  
1618 details of the plan is that they were being offered, and I  
1619 don't know the details of what other plans might be available  
1620 to them that might enable them to avoid that situation. So I  
1621 think it is a little more complex than you are presenting it  
1622 to me and you are not--that is all.

1623 Mr. {Griffith.} Well, and I would submit that it is  
1624 more complex on all of these situations because we have a  
1625 2,000-some-page bill that is very hard for people to get  
1626 their arms around and it is very hard for this Administration  
1627 apparently to operate and to run.

1628 That being said, let us talk about the SHOP exchanges  
1629 for small businesses. That is another part of the plan that  
1630 has been delayed for a year. Is that correct?

1631 Mr. {Cohen.} The online capability for SHOP is delayed  
1632 for a year, yes.

1633 Mr. {Griffith.} And, you know, many of the other delays  
1634 were for a few weeks or months. Why was this program delayed  
1635 for a year?

1636 Mr. {Cohen.} Given everything that we needed to do to

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1637 get the system working well for people in the individual  
1638 market, we made a decision that in terms of allocation of  
1639 resources, we couldn't get the SHOP online functionality  
1640 build in time for this year and so we are relying on the  
1641 traditional agents and brokers who historically have always  
1642 been the way that--

1643 Mr. {Griffith.} It was a complicated situation that you  
1644 had a hard time getting your arms around, and maybe if you  
1645 sat down and learned all the aspects of it you could advise--

1646 Mr. {Cohen.} No, we had to make a choice. We had to  
1647 decide what to devote our resources to.

1648 Mr. {Griffith.} I was being sarcastic. I apologize.

1649 Mr. {Cohen.} I know you were.

1650 Mr. {Griffith.} Here is my problem, and this happens so  
1651 often with this. The delay was announced the day before  
1652 Thanksgiving, wasn't it?

1653 Mr. {Cohen.} I believe you. I don't remember but I  
1654 believe you.

1655 Mr. {Griffith.} Okay. Do you know if there were  
1656 conversations before that day before Thanksgiving  
1657 announcement? How long in advance was the decision made to  
1658 delay the SHOP plan?

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1659           Mr. {Cohen.} I am sure that there were conversations  
1660 before it was announced. I wouldn't be able to tell you  
1661 exactly, you know, when but I know that into November there  
1662 were conversations, and then, you know, a decision was made  
1663 and then it was announced.

1664           Mr. {Griffith.} You know, there is a great concern for  
1665 a lot of us that a lot of these announcements come--we have  
1666 even made comments in other hearings that these announcements  
1667 come at holidays so that people will be doing other things  
1668 and won't pay attention to the fact that there has yet been  
1669 another delay, another failure in the rollout of this  
1670 program.

1671           Do you agree that that is not an appropriate way to run  
1672 the operation and it really ought to be coming out when  
1673 people can know what is going on instead of during the  
1674 holiday time when nobody is paying attention?

1675           Mr. {Cohen.} Well, I would agree with you that it is  
1676 very important that we put out accurate information so that  
1677 people could understand what is happening with the program,  
1678 yes.

1679           Mr. {Murphy.} The gentleman's time is expired. I now  
1680 recognize Mr. Tonko for 5 minutes.

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1681           Mr. {Tonko.} Thank you, Mr. Chair, and thank you,  
1682 Director Cohen, for your testimony once again before the  
1683 subcommittee. I believe we should have civil discourse with  
1684 you, and so I will try to conduct myself accordingly.

1685           Before I get to my questions, I just wanted to share  
1686 with the committee an Obamacare success story that I recently  
1687 received from a constituent. Brian from the city of  
1688 Schenectady wrote to me that he had been paying almost \$360  
1689 per month for a plan with no dental or vision coverage.  
1690 Through New York State's online exchange, he was able to get  
1691 a comparable medical plan and also purchase dental coverage  
1692 for \$290 per month. As he described it to me, this is more  
1693 coverage for less money. Brian was able to complete the  
1694 process in less than 2 hours, and because he makes only \$11  
1695 per hour, the different in premiums is having a huge impact  
1696 on his budget. Brian is not alone. As of January 1, more  
1697 than 241,522 New Yorkers were now enrolled in quality, low-  
1698 cost health insurance coverage through my home State's  
1699 exchange.

1700           In addition, more than 6,500 young adults in my district  
1701 now have health insurance through their parents' plan, and  
1702 more than 12,100 seniors in the district receive prescription

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1703 drug discounts worth \$16 million. One hundred and twenty-  
1704 four thousand seniors in the district are now eligible for  
1705 Medicare preventive services without paying any copays,  
1706 coinsurance or deductibles. I could go on and on but the  
1707 point is that the Affordable Care Act is here to stay and it  
1708 is providing an enormous benefit already to the people of the  
1709 20th Congressional District of New York, which I have the  
1710 good fortune of representing.

1711 It never ceases to amaze me how hard my Republican  
1712 colleagues work to avoid acknowledging the benefits of ACA.  
1713 I have never heard them admit that this law helps the  
1714 millions of Americans with preexisting conditions who can no  
1715 longer be discriminated against.

1716 Mr. Cohen, can you summarize for us some of the  
1717 important new protections that are now in place under the  
1718 Affordable Care Act?

1719 Mr. {Cohen.} Well, certainly. Thank you, Congressman.  
1720 Absolutely, the issue of preexisting is a huge one.  
1721 Previously, people could be denied insurance altogether, not  
1722 even because they are sick, you know, at the time they are  
1723 applying but because they had some condition in the past that  
1724 caused the medical underwriters to say that they weren't a

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1725 good risk, and then if they were offered insurance,  
1726 notwithstanding whatever that preexisting condition might be,  
1727 they could be charged significantly more as a result of that,  
1728 and one of the impacts of that, of course, was the fact that  
1729 women were being charged, you know, substantially more than  
1730 men being a woman was deemed to be a preexisting condition.  
1731 So all of that is gone.

1732           And then the last one I would mention and I think it is  
1733 very important is that in the past, people could find that if  
1734 they did become seriously ill, their insurance would run out  
1735 because they had either an annual limit of how much it would  
1736 pay or a lifetime limit of how much it would pay, and they  
1737 might be in the middle of, you know, a course of treatment  
1738 that was necessary to save their lives and find that all of a  
1739 sudden the insurance companies stopped paying and that they  
1740 were responsible for those costs on their own, and that can't  
1741 happen anymore.

1742           Mr. {Tonko.} Thank you. The stories of people signing  
1743 up for coverage would drive home how important these new  
1744 provisions are, and I know some stories have recently been  
1745 posted. I read a story about Nick from Miami. He is 29 and  
1746 was denied coverage last year because of a preexisting

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1747 condition. He was forced to enroll in a short-term  
1748 catastrophic plan that cost him \$280 a month and had a  
1749 termination date. Because of the ACA, he now has better  
1750 coverage with lower out-of-pocket costs and a guarantee that  
1751 he won't be kicked off his coverage or denied because of a  
1752 preexisting condition. Now he is covered and he does not  
1753 have to worry. There are more of these stories each and  
1754 every day

1755 Albert from Texas got covered for the first time in his  
1756 life because of the ACA. He got a plan for only \$23 per  
1757 month. He said it is the right thing to do. You never know  
1758 what could happen to you.

1759 Mr. Cohen, have you heard other stories like these?

1760 Mr. {Cohen.} Yes, we are hearing stories like that all  
1761 the time, and we are seeing them, you know, through social  
1762 media. We are seeing people are sending us their stories.  
1763 You know, on Healthcare.gov there is a place where you can,  
1764 you know, provide your story, and I must say, you know, they  
1765 are extremely heartening.

1766 Mr. {Tonko.} And, you know, what do they say to you  
1767 about the importance of the Affordable Care Act?

1768 Mr. {Cohen.} You know, the Affordable Care Act is

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1769 literally going to be lifesaving for many, many, many  
1770 Americans who without it would not have had the ability to  
1771 get the health care that they need and it is going to be a  
1772 financial lifesaver for many Americans who otherwise would  
1773 have faced bankruptcy as a result of medical costs, which was  
1774 the leading cause of bankruptcy in the country, you know,  
1775 prior to the ACA and I think we are going to see that change  
1776 dramatically.

1777         Mr. {Tonko.} I just wish our colleagues would just  
1778 admit for even the briefest moment that this law is helping  
1779 millions of people. Maybe then we could move forward and  
1780 have a national conversation about the Affordable Care Act  
1781 and any additional improvements that might be required. So  
1782 with that, I thank you, Director Cohen, and thank you for  
1783 appearing before our committee.

1784         Mr. {Murphy.} The gentleman yields back. I now go to  
1785 Mr. Long of Missouri for 5 minutes.

1786         Mr. {Long.} Thank you, Mr. Chairman.

1787         One person that does not think this is a lifesaving  
1788 endeavor is Brenda from my district, and Brenda has been  
1789 fighting a very rare form of cancer for the last 7 years, and  
1790 she leaves Springfield, Missouri, to go down to Little Rock,

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1791 Arkansas, to seek treatment. She is in a high-risk pool.  
1792 She was in a high-risk pool. When she found insurance, she  
1793 found out that she could no longer go to Little Rock,  
1794 Arkansas, to seek treatment from this very specialized doctor  
1795 that has literally kept her alive for the last 7 years. They  
1796 gave her 3 months to live when first diagnosed. She got  
1797 active. She is mid-50s, late 50s, and back then she was  
1798 early 50s, I guess, 50 years old, and she decided it wasn't  
1799 time to die so she wanted to fight and get active and find a  
1800 treatment for this, so she did down in Little Rock, Arkansas,  
1801 and she called me from her chemo chair or texted me, emailed  
1802 me from her chemo chair telling me that she had lost her  
1803 insurance, and when she found new insurance, because the  
1804 high-risk pool is going away, when she found new insurance,  
1805 she was told that she could no longer seek treatment down in  
1806 Little Rock, Arkansas, from this doctor, who is one of the  
1807 few in the country that does it. So I know you say it is  
1808 lifesaving. I know that my friend from New York says that he  
1809 wants people on this side of the aisle to admit there are  
1810 good cases. Sure, there is people that are picking up  
1811 insurance, there is good cases, but there is also people that  
1812 this could very easily cost them their life. So I am

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1813 concerned for people like Brenda.

1814 Mr. {Cohen.} Well, we certainly would like to hear from  
1815 you about Brenda's situation, if there is anything we can do  
1816 to work with the insurance companies.

1817 Mr. {Long.} And I appreciate that.

1818 Mr. {Cohen.} We would be very happy to do that.

1819 Mr. {Long.} I gave a Floor speech on the subject a  
1820 month or so ago, whenever she first emailed me, and she was  
1821 literally in the chemo chair in Little Rock taking the  
1822 treatment, and she said all the nurses stood up and cheered  
1823 my Floor speech in the room, but there are serious concerns  
1824 for people like Brenda.

1825 Sticking with the high-risk pools for just a minute, I  
1826 know that this new national high-risk pool as opposed to the  
1827 State-run ones that ran out at the end of December or  
1828 whatever have been extended to the end of what period?

1829 Mr. {Cohen.} End of March.

1830 Mr. {Long.} End of March. What--how are those being  
1831 paid for? I mean, where are you getting the money to pay for  
1832 those? Who is paying for that? We cannot get any answers,  
1833 at least my staff has been able to, on how this is being  
1834 funded.

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1835           Mr. {Cohen.} Oh, that is very clear. I mean, there is  
1836 a \$5 billion appropriation in the Affordable Care Act, and  
1837 that is the entire amount of money, that \$5 billion  
1838 appropriation that was in the Affordable Care Act that has  
1839 paid for the PCIP program, and we had--

1840           Mr. {Long.} I hate to interrupt you, that is not my  
1841 style, but the \$5 billion, wasn't that for a set amount of  
1842 time? But we keep getting these extensions that don't seem  
1843 to be paid for.

1844           Mr. {Cohen.} So the statute says that we can use that  
1845 money to ease the transition of PCIP enrollees into the new  
1846 market and so what we found was, we had enough funding based  
1847 on the number of enrollees we had and the costs that we are  
1848 incurring to allow those benefits to continue through March,  
1849 and at the end of March--by the end of March, everyone who is  
1850 in that program needs to get, you know, private coverage, and  
1851 that program--

1852           Mr. {Long.} Or they won't be able to seek care in  
1853 Little Rock. That is the rub there, I think.

1854           The ranking member said earlier, and my friend from  
1855 Florida made reference to the fact that there is all these  
1856 people that have enrolled in the Affordable Care Act that

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1857 didn't have coverage before. How can we drill down and  
1858 figure out what the number is? Just because 146,000 in  
1859 Florida in Ms. Castor's district signed up in December, how  
1860 do we know that those people did not have insurance before?  
1861 How do we know they are not like Brenda that was forced off  
1862 her plan and hopefully can find another plan? Is there a way  
1863 to ascertain if these are true numbers, if these are really  
1864 people that are covered for the first time ever, they now  
1865 have health care insurance that never had it before?

1866 Mr. {Cohen.} So that is a really good question, and we  
1867 are working on being able to provide data as to the number  
1868 who were previously uninsured versus the number who may have  
1869 been insured before and are switching to new coverage, and we  
1870 understand that is an important issue. We don't have that  
1871 data today.

1872 Mr. {Long.} If you can work on that, because, you know,  
1873 one side tells one side of the story, one side tells the  
1874 other, and usually, as you know, the truth lies in the  
1875 middle. So when I hear how many people that never had cover  
1876 before, I question if they didn't have it, lost it and bought  
1877 new.

1878 So thank you for your time here today.

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1879 Mr. {Cohen.} Thank you.

1880 Mr. {Murphy.} The gentleman yields back. Now Mr.

1881 Butterfield for 5 minutes.

1882 Mr. {Butterfield.} Thank you, Mr. Chairman, and thank  
1883 you, Mr. Cohen, for your testimony today. I want to assure  
1884 you, Mr. Cohen, that when the history of this debate is  
1885 written many years from now, I promise that you will be  
1886 regarded as one of many people in this Administration and  
1887 across this country who were on the right side and helped  
1888 millions of Americans get insurance. You are doing the right  
1889 thing, and I want to thank you for what you do.

1890 Mr. {Cohen.} Thank you.

1891 Mr. {Butterfield.} But Mr. Chairman, this is getting  
1892 ridiculous. My friends just won't let go. I think Mr. Tonko  
1893 made reference to it a few minutes ago.

1894 Let me try to put this in somewhat of context.  
1895 Yesterday's New York Times wrote that North Carolina Senator  
1896 Okay Hagan has faced more than 3,500 negative ads about the  
1897 Affordable Care Act since June 1st. That amount of negative  
1898 ads is more than three times as much as any other Member of  
1899 Congress. Five million dollars has already been spent on  
1900 negative ads related to Obamacare in my State of North

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1901 Carolina.

1902           The fact is, Mr. Chairman, the Affordable Care Act is  
1903 the law of the land. It is working in my State. The Brenda  
1904 in my district is named Carlton Stevens, Jr. I drove up to  
1905 an Exxon station a few days ago, and Little Carlton, we call  
1906 him, jumped out his car and told me how excited he was that  
1907 he had signed up with the Affordable Care Act, told me that  
1908 he was paying \$700 for he and his wife and two children, that  
1909 the premium was going up to \$800, that he enrolled in the  
1910 Affordable Care Act and is now paying \$240 per month.

1911           The fact is, and the reason Mr. Cohen had difficulty in  
1912 trying to describe winners and losers is that each case is  
1913 unique. You have to compare the coverage. You have to  
1914 compare the cost. You have to compare the circumstances.  
1915 And so the Brenda in my district is Carlton Stevens and he is  
1916 getting insurance now for \$240 per month.

1917           Of all States participating in the federal exchange, my  
1918 State, Ms. Ellmers' State as well, had more than 107,000  
1919 enrollees from October to December, which constitutes the  
1920 most enrollees in the federal marketplace per capita.  
1921 Eighty-nine percent of those enrollees are low or middle  
1922 income and qualify for a tax credit for their plans. North

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1923 Carolinians are having tremendous success with the federal  
1924 marketplace and Healthcare.gov. In fact, North Carolina  
1925 leads all other States in Health and Human Services Region 4  
1926 with more than 61 percent of individuals who complete an  
1927 application selecting a marketplace plan.

1928       Nationwide, the trend is very similar. By the end of  
1929 December, nearly 2.2 million had enrolled and several hundred  
1930 thousand more have enrolled since then. Tuesday's Washington  
1931 Post cover story stated, ``The data show a sevenfold upswing  
1932 in enrollment in the federal exchange from the first 2 months  
1933 as the Web site's performance improved.''

1934       And so Mr. Cohen, I want to ask you, can you describe  
1935 for me the trend in the number of adults 18-34 who have  
1936 selected these marketplace plans?

1937       Mr. {Cohen.} I think we reported the 18-34 was about 24  
1938 percent of the enrollments and that that was very close to  
1939 the percentage of that age group in the general population,  
1940 so we were quite pleased by that, and we expect to see, you  
1941 know, that number increasing as we move through the rest of  
1942 the open enrollment period.

1943       Mr. {Butterfield.} Well, talk to me about some of the  
1944 national campaigns which will help to begin to get youth

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1945 enrollment up higher than even 24 percent, perhaps to 40  
1946 percent.

1947           Mr. {Cohen.} So I know that we are going to be doing a  
1948 lot more paid media, specifically around the Olympics, which  
1949 will be starting in a couple of weeks, and around other, you  
1950 know, sporting events and other activities that we would  
1951 expect young people to be particularly interested. I know we  
1952 are doing--have been doing and are doing an increased amount  
1953 of outreach through the social media, you know, Facebook,  
1954 Twitter, all that sort of thing, and I know that all of our  
1955 advertising is very targeted to try to reach the populations  
1956 that we, you know, most want to get--obviously we want  
1957 everyone to enroll but we want to particularly focus  
1958 obviously on the young people, as we have talked about.

1959           Mr. {Butterfield.} Thank you. And lastly, I made  
1960 reference to my home State of North Carolina in my  
1961 introductory statement, and I am very proud of the enrollment  
1962 rates there. I have 700,000 people in my Congressional  
1963 district, and I tell you that 100,000 of those 700,000 are  
1964 uninsured, and this is making a difference. What factors do  
1965 you believe contribute to North Carolinians choosing  
1966 marketplace plans at such a high rate as compared to the

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1967 national norm?

1968 Mr. {Cohen.} Well, I mean, I have to believe that in  
1969 places where the need is the most, you know, is where we are  
1970 seeing the biggest response. So in places where the rate of  
1971 uninsured was high, I think that is where we are seeing the  
1972 biggest response.

1973 Mr. {Butterfield.} Thank you.

1974 Mr. {Murphy.} In response to his question, do you know  
1975 how you are spending on the Olympics advertising?

1976 Mr. {Cohen.} I actually don't but I am sure we can get  
1977 that for you.

1978 Mr. {Murphy.} Please let us know. Thank you.

1979 I now recognize the gentlelady from North Carolina, Ms.  
1980 Ellmers.

1981 Mrs. {Ellmers.} Thank you, Mr. Chairman, and to my  
1982 colleague from North Carolina, Mr. Butterfield, I am going to  
1983 kind of extend some of the questions to you, Mr. Cohen, where  
1984 Mr. Butterfield left off.

1985 Mr. {Butterfield.} And adjoining districts, we might  
1986 add.

1987 Mrs. {Ellmers.} Yes.

1988 Mr. {Butterfield.} Adjoining districts.

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1989           Mrs. {Ellmers.} My colleague, you know, pointed out  
1990 that about 107,000 have enrolled in North Carolina. That is  
1991 the figures that we are seeing. However, 437,000 received  
1992 cancellation notices for their health care policies that they  
1993 already had. So even though that 107,000 may sound  
1994 impressive, we are way behind on those who have had their  
1995 policies cancelled. So there is a lot of making up to do.

1996           I do want to get back to some of those numbers. Now,  
1997 correct me if I am wrong. How many people in America do you  
1998 believe have signed up for coverage now?

1999           Mr. {Cohen.} Well, the most recent figures that we put  
2000 out were 2.2 million, and that is just in the marketplace.  
2001 Obviously there are people who are buying coverage--

2002           Mrs. {Ellmers.} So the six million figure that I keep  
2003 hearing today, where is the six million figure coming from?

2004           Mr. {Cohen.} That is taking the 2.2 and adding 3.9  
2005 million who enrolled in Medicaid.

2006           Mrs. {Ellmers.} Okay. So basically what we are doing  
2007 is, we are culminating. And are you aware that the  
2008 Washington Post gave three Pinocchios to this number? Are  
2009 you going to keep this figure?

2010           Mr. {Cohen.} I didn't see the Pinocchios. I would have

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2011 to take a look at what they called into question.

2012 Mrs. {Ellmers.} So you agree with the six million  
2013 figure? You believe that there have been six million?

2014 Mr. {Cohen.} I believe that as we reported, 2.2 million  
2015 have enrolled in marketplace plans and about 3.9 million had  
2016 enrolled in Medicaid, and I think the Medicaid number was  
2017 actually only through November.

2018 Mrs. {Ellmers.} Okay. Now, of those who signed up for  
2019 Medicaid, how many of them could have previously signed up  
2020 for Medicaid but did not before Obamacare was instituted?

2021 Mr. {Cohen.} I don't have that number for you.

2022 Mrs. {Ellmers.} You don't have the number? Can you get  
2023 the number?

2024 Mr. {Cohen.} I can certainly ask my colleagues in  
2025 Medicaid if they have that number.

2026 Mrs. {Ellmers.} Okay. Because that--

2027 Mr. {Cohen.} I don't run Medicaid so--

2028 Mrs. {Ellmers.} That doesn't fall under you?

2029 Mr. {Cohen.} No.

2030 Mrs. {Ellmers.} Okay. So now we have a situation where  
2031 we have a number of Medicaid that are signed up. Wonderful.

2032 We want to make sure that people have coverage that is

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2033 applicable to them, but isn't this going to play into the  
2034 cost factor, especially for those States, you know, when we  
2035 don't really know where the numbers fall out as far as those  
2036 who could have signed up before but did not for whatever  
2037 reason and now have?

2038 Mr. {Cohen.} Well, the States that expand, the newly  
2039 eligible will be paid, you know, 100 percent by--

2040 Mrs. {Ellmers.} Right, the newly eligible, but those  
2041 who could have received coverage before, the States are going  
2042 to be responsible for a percentage of that, correct?

2043 Mr. {Cohen.} That is right, under the usual match, yes.

2044 Mrs. {Ellmers.} Now, you said you don't have the  
2045 number, you don't have the figure, when we had Secretary  
2046 Kathleen Sebelius, she said that she did not have that  
2047 number, and I believe she actually said that they could not  
2048 get that number, so I would appreciate if you could get that  
2049 to us in the committee, because I think the thing of it is--  
2050 and I will just quote the Washington post fact checker.  
2051 Basically what he said is this number tells you almost  
2052 nothing about how the health care law is affecting Medicaid  
2053 enrollment. Reporters need to stop using it because  
2054 basically--and that is a quote--because it is very

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2055 misleading. It is very misleading.

2056 Now, I have got a little bit more time here. You know,  
2057 we are all sharing stories about our constituents, and you  
2058 know, some of the stories that we have heard have been  
2059 positive. I want to hit on the issue of the change for women  
2060 because I keep hearing about the issue about, you know,  
2061 bringing down costs for women. However, I have a woman who  
2062 was formerly in my district, is not in my district now, from  
2063 Rocky Mountain, North Carolina, who basically reached out to  
2064 my office and through, you know, personal situation, lost her  
2065 health care coverage and now the plan--she was paying \$254 a  
2066 month. Now she is going to have pay \$610 a month. She  
2067 simply cannot afford it. She is probably going to have to  
2068 choose to not take coverage. How, when we continue to claim  
2069 that health care has improved for women with, you know,  
2070 mammograms, when we call these things free, how did we go  
2071 from \$254 a month to \$610 a month and we can still claim that  
2072 she is getting free services?

2073 Mr. {Cohen.} So again, I really can't address an  
2074 individual's situations without more of the specifics. We  
2075 would be happy to, you know, have folks talk to her if she is  
2076 interested.

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2077           Mrs. {Ellmers.} Well, I would appreciate that. I will  
2078 have my staff get that information to you and your office so  
2079 that we can work, because if we are really going to take care  
2080 of women in this country, health care issues for women, let  
2081 us be straight on it. Let us make sure that we are getting  
2082 the points across because women's health is very, very  
2083 important, and this is very misleading.

2084           So with that, I yield the remainder of my time.

2085           Mr. {Murphy.} The gentlelady yields back. I now  
2086 recognize Ms. Schakowsky for 5 minutes.

2087           Ms. {Schakowsky.} Thank you, Mr. Chairman.

2088           I want to talk a little bit about constituent services  
2089 when it comes to health care because long before the  
2090 Affordable Care Act, my office spent a lot of time dealing  
2091 with insurance problems, people who suddenly weren't able to  
2092 get the medication that they had been getting before, I mean,  
2093 really tricky issues that sometimes we could solve and  
2094 sometimes we couldn't solve. So the private insurance market  
2095 as it was before was very difficult to navigate. I think  
2096 that is really important to remember.

2097           But I have to tell you, Mr. Cohen, we have done  
2098 constituent service with your office on many occasions now

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2099 since the Affordable Care Act is in place, and I am happy  
2100 that you were able to tell my friend, Congressman Long, that  
2101 would look at the Brenda situation and work to get her the  
2102 health care that she needs, and I would suggest that my  
2103 experience has been that we have been able to resolve through  
2104 your office many of the problems. Yes, this is a confusing  
2105 time, but I guarantee you that before Obamacare, it was very  
2106 confusing every year, and by the way, still is with Medicare  
2107 Part D, and we really encourage all of our constituents on  
2108 that program to look every single year to make sure that  
2109 their medications are still on the formulary.

2110       Mr. {Cohen.} And if I can just say, Congresswoman, you  
2111 know, we have gotten tremendous response from the insurance  
2112 industry, from the pharmaceutical industry as we have tried  
2113 to resolve these problems this January, and I have talked  
2114 with the issuers, I have talked with the pharmacies, I have  
2115 talked with the hospital association, and what I am hearing  
2116 from them is that the nature of the problems that we are  
2117 seeing as we moved into January and people using their  
2118 coverage are no different from what has happened every year  
2119 as people get new coverage, change coverage. There are  
2120 always issues in terms of, you know, people being able to

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2121 verify their enrollment, being able to see their doctor, all  
2122 those kinds of issues, and we stand ready to help. We have  
2123 caseworkers in every single region of the country, and we  
2124 stand ready to help anybody if we possibly can.

2125 Ms. {Schakowsky.} And I know that in my State,  
2126 Democrats and Republicans are working very hard to help their  
2127 constituents and so I am hoping that everyone on the other  
2128 side of the aisle on this committee is taking advantage of  
2129 the constituent service that is available from you and then  
2130 also through the insurance companies and the pharmaceutical  
2131 companies.

2132 I wanted to again go over a little bit on the issue of  
2133 these letters of termination. Insurance companies that we  
2134 have talked to said they expected almost all of their current  
2135 customers to stay covered. Have you seen evidence of that?

2136 Mr. {Cohen.} Oh, absolutely. So it really is not  
2137 accurate to think that because a plan is no longer being  
2138 offered that that means the person is not getting coverage.  
2139 Again--

2140 Ms. {Schakowsky.} And let us be clear. It is not  
2141 offered because it doesn't meet the criteria of the--

2142 Mr. {Cohen.} That is right. So in every instance that

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2143 I am aware of, the carrier offered the person a new plan that  
2144 in some cases automatically enrolled them in a new plan so  
2145 that there would be no gap in coverage. So and then in  
2146 addition to that, of course, we have--through our  
2147 transitional policy, we have made it possible for people to  
2148 keep their existing plan if that is what the insurance  
2149 company wants to offer to them.

2150 Ms. {Schakowsky.} My understanding of this issue of the  
2151 grandfather option enables about half of those who receive  
2152 cancellation notices to renew their plan. Has this been  
2153 happening?

2154 Mr. {Cohen.} That is right.

2155 Ms. {Schakowsky.} And roughly half the remaining group  
2156 that got cancellation letters, my understanding is, are able  
2157 to get actually a better deal through the federal and state  
2158 marketplaces because they are eligible for tax credits or  
2159 Medicaid, so they get better coverage for a lower and often  
2160 much lower cost.

2161 Mr. {Cohen.} So for people who are eligible for the  
2162 subsidy, absolutely, we would expect that they would pay less  
2163 and they would in many cases get better benefits than what  
2164 they had had.

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2165 Ms. {Schakowsky.} And finally, in December, the  
2166 President announced that individuals who had canceled  
2167 policies would be eligible for a hardship exemption so they  
2168 could purchase low-cost catastrophic plans. How will this  
2169 change the options available to those that got cancellation  
2170 notices?

2171 Mr. {Cohen.} So what that basically means is, anyone  
2172 who got a cancellation and feels that the plans that are  
2173 available to them are not affordable can claim the hardship  
2174 exemption and can enroll in a catastrophic plan, which is a  
2175 high-deductible plan but will cover them in the case of any  
2176 serious illness, and those plans are generally very  
2177 affordable.

2178 Ms. {Schakowsky.} Thank you. I yield back.

2179 Mr. {Murphy.} The Chair recognizes Mr. Johnson for 5  
2180 minutes.

2181 Mr. {Johnson.} Thank you, Mr. Chairman.

2182 Mr. Cohen, I too would like to thank for being here  
2183 today. You know, we have had a long and arduous journey  
2184 since this all started and the American people came under the  
2185 Affordable Care Act back last October, the Web site going up,  
2186 and you mentioned in your testimony that, you know,, the

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2187 problems that we had, that it wasn't time to give up, it was  
2188 time to roll up our sleeves and get to work. Well, I respect  
2189 that, but I will submit to you that we have got a little bit  
2190 of a different idea about what roll up your sleeves mean.  
2191 You see, the American people, businesses, individuals,  
2192 hardworking taxpayers across this country who are  
2193 increasingly burdened by the big-spending over-regulating  
2194 policies of this Administration, not very many of those folks  
2195 get a second chance. Only in Washington, D.C., and with this  
2196 Administration do we see a constant pattern of redo at  
2197 somebody else's expense. In this case, it is the American  
2198 people's expense.

2199       So I submit to you that what we should have done, what  
2200 the Administration should have done is roll up its sleeves  
2201 and do this the right way in the first place. Let doctors  
2202 and patients manage their health care. We have got a private  
2203 sector health care system that has provided the best health  
2204 care in the world. It did not have to be done this way.

2205       Let me get to a few specific questions. Since the  
2206 launch of Healthcare.gov, Mr. Cohen, has the site been  
2207 subject to any security breaches?

2208       Mr. {Cohen.} No.

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2209 Mr. {Johnson.} No security breaches?

2210 Mr. {Cohen.} There have been no breaches in the sense  
2211 of anybody attacking the site and being able to--

2212 Mr. {Johnson.} There have been no incidences of people  
2213 attacking--

2214 Mr. {Cohen.} No, where they were successful?

2215 Mr. {Johnson.} That is what you just said.

2216 Mr. {Cohen.} Well, because you interrupted me,  
2217 Congressman. I didn't get a chance to finish what I am  
2218 trying to say. No, there have been no successful attempts  
2219 where anyone has been able to attack the system and penetrate  
2220 it.

2221 Mr. {Johnson.} Wow, that is contrary to what we have  
2222 heard in other testimony and what is widely known in the  
2223 media.

2224 Ms. {DeGette.} Mr. Chairman, I respectfully disagree  
2225 with that.

2226 Mr. {Johnson.} Claiming my time. Claiming my time.  
2227 What is the difference, in your opinion, between a security  
2228 incident and a security breach?

2229 Mr. {Cohen.} You could have a security incident where  
2230 because of an error or a mistake or somebody sent something

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2231 to the wrong place, you know, that was an isolated, specific  
2232 incident where information was transmitted in a way that was  
2233 incorrect. When I hear breach--

2234 Mr. {Johnson.} How do you relate that back to the  
2235 testimony that we have heard testimony before the Energy and  
2236 Commerce Committee that security was never even factored in  
2237 and tested prior to standing up the Web site? So can you  
2238 promise the American people today right now that their  
2239 personal information is secure on Healthcare.gov?

2240 Mr. {Cohen.} Yes. I can't promise that there won't  
2241 ever be an incident but I can promise that their information  
2242 is secure, and I can promise that--

2243 Mr. {Johnson.} That sounds like an oxymoron to me. You  
2244 can't assure that there is not going to be a breach but their  
2245 information is secure?

2246 Mr. {Cohen.} That is not what I said.

2247 Mr. {Johnson.} Let me ask you a follow-on question.  
2248 Can you promise to this Congress that if Healthcare.gov is  
2249 subject to a breach or a hack or any security failure that  
2250 you will alert the Congress as soon as you find out about it?

2251 Mr. {Cohen.} We follow normal procedures and protocols  
2252 for when those incidents happen.

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2253 Mr. {Johnson.} But the American people need to know and  
2254 this Congress needs to know, so can we get your agreement  
2255 that you will notify Congress if that occurs?

2256 Mr. {Cohen.} We will certainly work with you to make  
2257 sure you get that information.

2258 Mr. {Johnson.} Whose job is it to inform Congress and  
2259 the American people when a security breach occurs? Whose job  
2260 is that?

2261 Mr. {Cohen.} CMS has an Office of Security, you know,  
2262 information security, that is responsible for that, and is  
2263 today in the case of the Medicare system where we have 50  
2264 million enrollees whose data--

2265 Mr. {Johnson.} I got it. CMS is responsible. Who is  
2266 responsible for the overall cyber security of the  
2267 Healthcare.gov site?

2268 Mr. {Cohen.} I think that is the same.

2269 Mr. {Johnson.} Do you know how many people in CMS are  
2270 dedicated to protecting the security of Healthcare.gov?

2271 Mr. {Cohen.} I couldn't tell you a number of people. I  
2272 know we have a dedicated security team. I know we do  
2273 continuous monitoring. We actually have people watching the  
2274 site 24 hours a day.

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2275 Mr. {Johnson.} Do you know how many contractors are  
2276 involved?

2277 Mr. {Cohen.} I don't.

2278 Mr. {Johnson.} Do you know how much money is being  
2279 spent to provide security?

2280 Mr. {Cohen.} On security? I would have to get that  
2281 number for you.

2282 Mr. {Johnson.} Does anyone report to you regarding the  
2283 security of the site?

2284 Mr. {Cohen.} My office is not responsible for the  
2285 security of the site but I am given reports--

2286 Mr. {Johnson.} Can you give us examples of those  
2287 reports so we can see what those reports include?

2288 Mr. {Cohen.} I can certainly take that request back and  
2289 see what we have.

2290 Mr. {Johnson.} Okay. Well, I mean, they come to you so  
2291 you ought to be able to release them, right?

2292 Mr. {Cohen.} I can certainly take your request back and  
2293 see what we have.

2294 Mr. {Johnson.} Mr. Chairman, I yield back.

2295 Ms. {DeGette.} Mr. Chairman, I ask--oh, go ahead.

2296 Mr. {Murphy.} I was just going to say that a number of

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2297 the reports on attempts to hack into the system are  
2298 classified, and we can make that available to all members to  
2299 know that there have been multiple attempts. There has not  
2300 been a breach yet but I am sure the attempts will continue  
2301 on, but much of that is classified.

2302 Ms. {DeGette.} Mr. Chairman, on that vein, last week  
2303 Democratic staff of the subcommittee and full committee  
2304 prepared a memo of information that was provided in the  
2305 classified briefings, which is not classified. A lot of the-  
2306 -I was at the classified briefings. A lot of that  
2307 information was not of a classified nature, and what that  
2308 information said is, there are no successful hacks of  
2309 Healthcare.gov, and it further said that surprisingly there  
2310 have been no additional attempts than other government Web  
2311 sites. And so I would ask unanimous consent to put that  
2312 memorandum, which is dated January 9, 2014, into the record.

2313 Mr. {Murphy.} And we will take that into the record.

2314 [The information follows:]

2315 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|

2316 Mr. {Murphy.} We will also remain vigilant, because we  
2317 suspect there will continue to be attempts.

2318 Now, there is some time left on the Floor for votes. We  
2319 can adjourn to go vote and come back and complete this--

2320 Ms. {DeGette.} I think we have time.

2321 Mr. {Murphy.} Would you like to continue? Who is next?

2322 Mr. Harper, you are recognized for 5 minutes.

2323 Mr. {Harper.} Thank you, Mr. Cohen. Good to see you  
2324 again. We are almost done. I would like to ask a few  
2325 questions if I could.

2326 You touched on earlier in response to some questions  
2327 about risk corridors.

2328 Mr. {Cohen.} Okay.

2329 Mr. {Harper.} And it is a program to offset huge cost  
2330 increases being the temporary risk corridor program. Where  
2331 within the Administration is this program housed? Is it HHS,  
2332 CMS or where?

2333 Mr. {Cohen.} Risk corridors is under my program.

2334 Mr. {Harper.} And the individual in charge of that  
2335 program would be who?

2336 Mr. {Cohen.} The person who works for me who is

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2337 responsible for that program's name is Sharon Arnold.

2338 Mr. {Harper.} So it is just that one person then that  
2339 would be the one in charge?

2340 Mr. {Cohen.} Well, she runs the program. She reports  
2341 to me, so I am responsible but she works for me, and that is  
2342 her program that she is managing with other people, with her  
2343 staff.

2344 Mr. {Harper.} And there are other staff then, multiple  
2345 people would help her to run that program?

2346 Mr. {Cohen.} That is true.

2347 Mr. {Harper.} And would you be able to provide us a  
2348 complete list of the staffers who do perform any service  
2349 connected to the risk corridor program?

2350 Mr. {Cohen.} Yes.

2351 Mr. {Harper.} Thank you. Under this program, if  
2352 insurers are hit with costs greater than 103 percent of their  
2353 premiums, the government will give them money. Am I correct?

2354 Mr. {Cohen.} That is right.

2355 Mr. {Harper.} How will--

2356 Mr. {Cohen.} And there are certain--it is a little more  
2357 complicated than that but yes.

2358 Mr. {Harper.} And I have got a couple of follow-up

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2359 questions that may allow you to answer that. How will the  
2360 determination be made of what these costs are? I mean, is  
2361 there a form or--

2362 Mr. {Cohen.} The insurance companies will have to  
2363 present data to us on their health care expenditures, and  
2364 then it won't be until 2015 that we actually make any  
2365 payments under the program.

2366 Mr. {Harper.} So can you tell us exactly how the  
2367 insurers will report this? I know it has to be--they are  
2368 going to report it, but how are they going to report it?

2369 Mr. {Cohen.} There will be, you know, forms or  
2370 templates or whatever that they will have to provide to us,  
2371 the accounting information that will tell us what their  
2372 health care spending has been.

2373 Mr. {Harper.} And I have got follow-up too on some  
2374 enrollment questions if I can kind of shift over to that.

2375 Mr. {Cohen.} Sure.

2376 Mr. {Harper.} The most important number, as has been  
2377 reported by many news outlets, is whether individuals have  
2378 paid. Does the Administration collect this information? I  
2379 am just asking, do you collect this information?

2380 Mr. {Cohen.} Right now we are not but we will be.

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2381 Mr. {Harper.} When?

2382 Mr. {Cohen.} As soon as that functionality is built. I  
2383 think I answered some questions about that earlier, that not  
2384 all of that functionality is built yet.

2385 Mr. {Harper.} Will that mean then that we have to go  
2386 back all those that are enrolled, find out whether or not  
2387 they paid so they will have to go back to those that are  
2388 already in? We are not collecting it as it occurs?

2389 Mr. {Cohen.} We ultimately will reconcile to make sure  
2390 that advanced premium tax credits, for example, are not paid  
2391 with respect to anyone who didn't pay their premium because  
2392 that is a requirement, that you pay your premium in order to  
2393 get the tax credit.

2394 Mr. {Harper.} What department would have this data?

2395 Mr. {Cohen.} It is going to come to my office.

2396 Mr. {Harper.} Who would be the individual that would be  
2397 in charge of that operation?

2398 Mr. {Cohen.} That is also Sharon Arnold.

2399 Mr. {Harper.} So we don't know at this point how many  
2400 people have actually paid for coverage?

2401 Mr. {Cohen.} That is right.

2402 Mr. {Harper.} So are you telling me that you don't have

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2403 any data, you haven't received any information as to who has  
2404 paid or you just haven't compiled it yet?

2405 Mr. {Cohen.} We have gotten enrollment data from the  
2406 issuers with respect to the APTC payments that we are going  
2407 to be making next week but it is not on an individual basis.  
2408 So they have told us who--the number of people who are  
2409 enrolled and who have paid but we don't have it on an  
2410 individual basis.

2411 Mr. {Harper.} Am I--

2412 Mr. {Cohen.} Ultimately we will.

2413 Mr. {Harper.} And I didn't mean to cut you off, Mr.  
2414 Cohen. Are you telling me you are going to be paying  
2415 insurers without knowing whether or not the insureds have  
2416 been paid?

2417 Mr. {Cohen.} No, we are going to be relying on data  
2418 from them as to who has paid but we don't yet have an  
2419 automated system--

2420 Mr. {Harper.} So if you are relying on that--

2421 Mr. {Cohen.} And we will reconcile that as soon as--you  
2422 know, make sure that those numbers are reconciled and are  
2423 correct once we do have the capability of receiving the  
2424 additional data.

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2425 Mr. {Harper.} All right. Well, do you know the total  
2426 amount of paid from each insurer at this point since you are  
2427 relying on that data?

2428 Mr. {Cohen.} Yes, we have information on what we are  
2429 going to be paying to each insurer in this first group of  
2430 payments that is going out next week. We do have that.

2431 Mr. {Harper.} Can we go ahead and get the data that you  
2432 do have, whether it is compiled or not?

2433 Mr. {Cohen.} I am sure you can.

2434 Mr. {Harper.} All right. I believe my time is almost  
2435 expired. I will yield back.

2436 Mr. {Murphy.} The gentleman yields back. I now  
2437 recognize the gentleman from Colorado, Mr. Gardner, for 5  
2438 minutes.

2439 Mr. {Gardner.} Thank you, Mr. Chairman, and thank you,  
2440 Mr. Cohen, for your time today.

2441 I too received my insurance cancellation. Have you ever  
2442 met anybody who had their insurance canceled?

2443 Mr. {Cohen.} You may be the first.

2444 Mr. {Gardner.} That is pretty shocking, because 335,000  
2445 people in Colorado alone had their insurance canceled. The  
2446 letter that I got that told me that it would be cancelled

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2447 included this option: your option includes purchasing  
2448 another individual health plan from us, purchasing a health  
2449 plan from another carrier or purchasing a new plan through  
2450 Connect for Health Colorado. Was the President's promise  
2451 that I could keep my health care plan upheld? The  
2452 President's promise to me, was that upheld?

2453 Mr. {Cohen.} Well, I mean, we have talked about this a  
2454 lot. The law provided that insurance companies could keep  
2455 the existing plans as long as they didn't make significant  
2456 changes to benefits and cost sharing. Insurance companies  
2457 made different choices. There are still a lot of grandfather  
2458 plans out there, and those maintain, but then there were  
2459 other plans that did not continue into 2014. In some cases,  
2460 those plans were canceled.

2461 Mr. {Gardner.} So was the President's promise upheld to  
2462 me? I mean, I don't remember the President saying there is  
2463 qualifications if you like your health care plan. There is  
2464 no asterisk.

2465 Mr. {Cohen.} The law made it possible for everyone who  
2466 is in an existing plan as of the time it was passed for that  
2467 plan to be maintained but it didn't require insurance  
2468 companies to continue offering them.

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2469 Mr. {Gardner.} So the President--

2470 Mr. {Cohen.} What we did--so what we did in November  
2471 was, we offered another opportunity to say to insurance  
2472 companies, you can keep those plans in place even if they  
2473 didn't meet the requirements of the grandfathering  
2474 provisions.

2475 Mr. {Gardner.} So these changes to allow that, these  
2476 are big changes that you have to--or would a \$5 change  
2477 require them to discontinue the plan?

2478 Mr. {Cohen.} It was a percentage change that was in the  
2479 regulation as to how much--and it wasn't a change in premium,  
2480 it was a change in benefits or cost sharing.

2481 Mr. {Gardner.} So a copay of \$5, that would require you  
2482 to lose your insurance then?

2483 Mr. {Cohen.} I think that was one of the requirements.

2484 Mr. {Gardner.} And so is that a significant change to  
2485 an insurance policy, in your opinion?

2486 Mr. {Cohen.} Well, if a copay was 20 and it goes up \$5,  
2487 that is pretty significant, yeah.

2488 Mr. {Gardner.} So the President's promise, he said--so  
2489 really, in your mind, he shouldn't have even had to apologize  
2490 because he didn't do anything wrong.

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2491           Mr. {Cohen.} I think the President said that he  
2492 recognized that what he had said did not prove to be true for  
2493 many Americans, and as a result of that, we offered another  
2494 transitional policy to make it be more possible for more  
2495 Americans to get plans.

2496           Mr. {Gardner.} And do you have legal opinions that give  
2497 the President the authority to make these extensions and  
2498 changes? Could you provide me with a legal memorandum that--

2499           Mr. {Cohen.} I would have to--I honestly don't recall  
2500 whether we had a legal opinion on that issue.

2501           Mr. {Gardner.} When did you--you testified in  
2502 September, as we talked about, before the committee talking  
2503 about everything going fine, and it would be fine. When did  
2504 you first know that it wasn't going fine? Was it September  
2505 27th, 28th, October 1st?

2506           Mr. {Cohen.} October 1st.

2507           Mr. {Gardner.} So you had no indication prior to  
2508 October 1st that things weren't going well?

2509           Mr. {Cohen.} I had no indication prior to October 1st  
2510 that we are going to have the, you know, major, major  
2511 problems with the Web site that we ended up having.

2512           Mr. {Gardner.} When did you first know that people

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2513 would have their insurance canceled?

2514 Mr. {Cohen.} I think we have always known that not all  
2515 of the grandfather plans were going to continue. I don't  
2516 think we had necessarily a sense of how many would and how  
2517 many wouldn't.

2518 Mr. {Gardner.} When do you expect small business plans  
2519 to start canceling insurance?

2520 Mr. {Cohen.} That will likely happen throughout the  
2521 course of the year. Small business plans don't tend to all  
2522 come up for renewal in January. Many of them were renewed  
2523 early in 2013 so that they will continue--

2524 Mr. {Gardner.} And how many do you anticipate being  
2525 canceled?

2526 Mr. {Cohen.} I don't have a number of that. We can  
2527 look to see if we can come up with a number.

2528 Mr. {Gardner.} If you could provide an estimation of  
2529 how many additional insured you think will be canceled, that  
2530 will be great.

2531 And so do we have an idea of how many signed up through  
2532 the federal exchange so far? I know some of this we have  
2533 talked about before but how many people have signed up  
2534 through the federal exchange?

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2535 Mr. {Cohen.} Well, we reported that through December  
2536 28th, it was 2.2 million in the federal and the State, and of  
2537 those, it was something over 1.1 million were in the federal.

2538 Mr. {Gardner.} Okay. So about 1.1 million in federal,  
2539 1.1 million in States?

2540 Mr. {Cohen.} Roughly, yeah.

2541 Mr. {Gardner.} Okay. How many of those who signed up I  
2542 exchanges were not previously insured?

2543 Mr. {Cohen.} I don't have that number.

2544 Mr. {Gardner.} How many were previously insured but had  
2545 their insurance canceled and now signed up in the federal  
2546 exchange?

2547 Mr. {Cohen.} I don't have that number either.

2548 Mr. {Gardner.} How many saw their insurance rates go  
2549 up?

2550 Mr. {Cohen.} I don't have that number.

2551 Mr. {Gardner.} But you said that you know of a  
2552 significant number of people who saw their rates go down?

2553 Mr. {Cohen.} As we have been hearing, you know--

2554 Mr. {Gardner.} So you don't know for sure if their  
2555 rates went down. You are hearing anecdotal evidence.

2556 Mr. {Cohen.} We are hearing anecdotally, and I think--

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2557 Mr. {Gardner.} So you don't have any concrete numbers  
2558 on whether rates went up or down?

2559 Mr. {Cohen.} I think that we know that for people who  
2560 are eligible for a subsidy, that, you know, for those people,  
2561 it is, you know, almost certain that their costs would have  
2562 gone down.

2563 Mr. {Gardner.} So you have some numbers but you don't  
2564 know how many went up. Okay.

2565 So of the supposed 45 million without insurance, how  
2566 many people now have insurance?

2567 Mr. {Cohen.} I don't think we have that number yet but  
2568 certainly we are going to try to come up with as good data as  
2569 we can as we go forward, you know, to the end of open  
2570 enrollment.

2571 Mr. {Gardner.} How do we know the law is working?

2572 Mr. {Cohen.} Well, we know the law is working for many  
2573 people and we know that--

2574 Mr. {Gardner.} But you don't know how many of the  
2575 uninsured are now insured. You don't know how many people  
2576 saw their rates go up versus rates go down. Insurance  
2577 companies aren't being paid yet.

2578 Let us talk about the risk corridor provisions. What is

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2579 the probability of the risk corridor provision being utilized  
2580 or activated?

2581 Mr. {Cohen.} Utilized?

2582 Mr. {Cohen.} What is the probability of the risk  
2583 corridor language being utilized?

2584 Mr. {Cohen.} Oh, I mean, I think there will be a risk  
2585 corridor program.

2586 Mr. {Gardner.} No, but I mean, when is the provision of  
2587 that language being activated and payments being made from  
2588 the government to insurance companies? What is the  
2589 probability of that?

2590 Mr. {Cohen.} Oh, that will happen.

2591 Mr. {Gardner.} So you are saying that the government  
2592 will be paying private insurance companies--

2593 Mr. {Cohen.} Oh, how likely is it that there will be  
2594 claims on the program?

2595 Mr. {Gardner.} Yes.

2596 Mr. {Cohen.} I think we anticipate that there will be  
2597 claims on the program but there also may be some whose costs  
2598 are lower than what they anticipated and there will be  
2599 payments into the program, and I think the estimate was that  
2600 it was budget neutral.

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2601           Mr. {Murphy.} The gentleman's time is expired. Dr.  
2602 Burgess, do you have a follow-up question on something? I am  
2603 just going to give you 30 seconds.

2604           Dr. {Burgess.} I know we will have to do this for the  
2605 record, Mr. Cohen. We are interested in any legal memoranda  
2606 that you have been advised of or briefed on that define the  
2607 authority under the Affordable Care Act to delay  
2608 implementation or the authority to exercise enforcement  
2609 discretion over enforcement provisions. We all know this law  
2610 that was signed in March of 2010 bears no resembles to what  
2611 is actually going on today because of the variety of  
2612 enforcement discretions and delays that have been implemented  
2613 by the Administration. We would like to know under what  
2614 legal authority you are operating or what you have seen that  
2615 gives you the legal authority to do so. Thank you, Mr.  
2616 Chairman.

2617           Mr. {Murphy.} And you will provide that for the record,  
2618 Mr. Cohen?

2619           Mr. {Cohen.} We will certainly take that request back  
2620 and work with you.

2621           Mr. {Murphy.} I would also like you to follow up with  
2622 the other questions that members on both sides of the aisle

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2623 asked as follow-up questions. I would really like to know  
2624 Mr. Gardner's answers to his questions he asked about, just  
2625 how many people of the 45 million that were originally  
2626 supposed to be helped are signed up and if it is more or less  
2627 expensive for them.

2628           And I ask unanimous consent that the written opening  
2629 statements of other members who wish will be introduced into  
2630 the record.

2631           And in conclusion, I would like to thank the witness and  
2632 the members that participated in today's hearing and remind  
2633 members they have 10 business days to submit questions for  
2634 the record, and I ask, Mr. Cohen, if you would please agree  
2635 to respond promptly to the questions, and with that, this  
2636 committee hearing is adjourned.

2637           [Whereupon, at 11:42 a.m., the subcommittee was  
2638 adjourned.]