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4 PPACA IMPLEMENTATION: UPDATES FROM CMS AND GAO

5 THURSDAY, JULY 31, 2014

6 House of Representatives,

7 Subcommittee on Oversight and Investigations

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The subcommittee met, pursuant to call, at 9:17 a.m., in
11 Room 2123 of the Rayburn House Office Building, Hon. Tim
12 Murphy [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Murphy, Burgess,
14 Blackburn, Gingrey, Harper, Gardner, Griffith, Johnson,
15 Ellmers, DeGette, Braley, Schakowsky, Castor, Tonko, Yarmuth,
16 Green and Waxman (ex officio).

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17 Staff present: Mike Bloomquist, General Counsel; Sean
18 Bonyun, Communications Director; Matt Bravo, Professional
19 Staff Member; Leighton Brown, Press Assistant; Karen
20 Christian, Chief Counsel, Oversight; Noelle Clemente, Press
21 Secretary; Brad Grantz, Policy Coordinator, Oversight and
22 Investigations; Brittany Havens, Legislative Clerk; Sean
23 Hayes, Deputy Chief Counsel, Oversight and Investigations;
24 Emily Newman, Counsel, Oversight and Investigations; Jean
25 Woodrow, Director, Information Technology; Phil Barnett,
26 Democratic Staff Director; Peter Bodner, Democratic Counsel;
27 Brian Cohen, Democratic Staff Director, Oversight &
28 Investigations, and Senior Policy Advisor; Lisa Goldman,
29 Democratic Counsel; Elizabeth Letter, Democratic Press
30 Secretary; Karen Lightfoot, Democratic Communications
31 Director and Senior Policy Advisor; and Matt Siegler,
32 Democratic Counsel.

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|

33 Mr. {Murphy.} Good morning. I convene this hearing of
34 the Subcommittee on Oversight and Investigations to review
35 the implementation of the Patient Protection and Affordable
36 Care Act. Our first witness this morning, Mr. Andy Slavitt,
37 the Principle Deputy Administrator at the Centers for
38 Medicare and Medicaid Services. This is Mr. Slavitt's first
39 testimony as a CMS employee, but not his first appearance
40 before this Subcommittee. Some of you may recall that Mr.
41 Slavitt appeared before us last October to testify on behalf
42 of one of the contractors who built the Healthcare.gov site.
43 So welcome back.

44 Our ongoing concern about Healthcare.gov is one of the
45 reasons that we are holding this hearing today. Exactly one
46 year ago this week, members of this Committee will remember
47 that we heard from CMS Administrator Tavenner who told us
48 that Healthcare.gov would be ready on October 1. We were
49 told that it would work, everything we be fine. And later,
50 we found out that that wasn't quite the same thing. In fact,
51 the contractors told us the same thing that it would not be--
52 that it would be working.

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53 Our reviews of the website were brushed aside. But we
54 know how our fears of a massive flop were well-founded. The
55 rollout of the Affordable Care Act was an unmitigated
56 disaster. I think everybody agrees with that.

57 So, Mr. Slavitt, we are hoping to hear from you today
58 candidly and honestly about how things are progressing. And,
59 frankly, we hope we hear with the same candor from you as an
60 administration official that we heard last fall when you
61 testified on behalf of QSSI, the company that built the hub
62 for Healthcare.gov.

63 Mr. Slavitt's new role also comes at an opportune time
64 for the Administration to address the systemic problems that
65 led to the Healthcare.gov disaster. After Mr. Slavitt's
66 testimony, we will hear from William Woods with the
67 Government Accountability Office. Today, the GAO has
68 released a review of the failed October 1 launch of
69 Healthcare.gov, confirming what this Committee learned during
70 its own review of the website, the Administration didn't have
71 the expertise, couldn't meet deadlines and didn't have the
72 leadership or organizational skills to manage this massive
73 undertaking. And GAO also has given us a price tag for this

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74 boondoggle, a broken website that the President promised
75 would be as easy to use any an ecommerce site, cost the
76 taxpayers nearly one billion dollars. That took a lot of
77 taxpayers money from--and their hard earned paychecks to come
78 up with that one billion, and many taxpayers aren't happy
79 about that.

80 We will also hear from the GAO that these costs are
81 still going up. Some of my colleagues may whine and complain
82 that we are spending too much time examining the failed
83 website launch. I am not surprised. They don't want to talk
84 about it. But the reality is these problems are still
85 playing out, and may impact this fall's open enrollment
86 period.

87 We still do not know if the Administration has a system
88 in place capable of handling inconsistencies, inaccurate
89 subsidies, web security, or whether CMS will ever put in
90 place a functioning payment system.

91 We will ask today about the Healthcare.gov contracts and
92 the GAO report. But as we head into open enrollment this
93 fall, patients and families need to know how this law will
94 affect them because, each day, the AC is making our

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95 healthcare system more expensive, fragmented and restrictive.

96 Early this summer, insurers were required to notify the
97 Administration plans for premium rates in 2015. We hope that
98 witnesses today will provide information on the rates that
99 have been submitted, when the public will know them with
100 enough time to plan for their purchase, and whether the
101 public will ever see \$2,500 in savings that the President
102 promised.

103 Speaking of promises, we also want to know if Americans
104 will be able to keep their doctor and if they were able to
105 keep their plan if they liked it. Earlier this year, this
106 Committee heard testimony from representatives of the
107 insurance industry who noted that the requirements in the
108 healthcare law required the cancellation of millions of
109 policies. We hope to hear whether the Administration
110 predicts widespread cancellations and uncertainty again this
111 fall.

112 And it is not only individual plans that we are
113 concerned about. Last week, the IRS finally released--it
114 was--began releasing information related to the enforcement
115 of the employer mandate. This may be surprising to many.

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116 The Administration has after all delayed this several times.
117 But it certainly raises questions about what will happen when
118 one of the law's most controversial pieces finally goes into
119 effect.

120 Finally, I remain concerned about the overall impact of
121 this law. Millions of Americans had their health insurance
122 cancelled because of the law only to find that the plans they
123 are now forced to buy are much more expensive in premiums,
124 copays, deductibles or all the above. Some people may
125 qualify for subsidies and others do not. At the same time,
126 the law's massive cost and destructive impact on the economy
127 will continue to be felt for years.

128 I again thank both the witnesses for testifying.

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

130 ***** COMMITTEE INSERT *****

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131 Mr. {Murphy.} And now recognize the Ranking Member for
132 5 minutes.

133 Ms. {DeGette.} Thank you so much, Mr. Chairman. Well,
134 I have got to say, I don't really think we could go on August
135 recess without having another hearing on the Affordable Care
136 Act, because this is now the twelfth one we have had in the
137 last 10 years. As I have been saying the last couple years,
138 the ACA Oversight is a really important topic, but I would
139 feel a whole lot better if we were actually doing oversight
140 on what is happening now with the ACA instead of just
141 rehashing old issues over and over again.

142 You are right. We will stipulate the rollout of the ACA
143 was an unmitigated disaster. But I guess I would like to
144 know how long we are going to keep beating this drum?
145 Because when you look at what has happened since the
146 unmitigated disaster of the rollout, things are actually
147 improving. And just about every prediction that was made
148 about the law has turned out to be wrong once we got going.
149 So I think we should spend our time trying to figure out how
150 to make the law work even better for the millions of

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151 Americans who are now enrolling and getting health insurance.

152 So in the last year, we had hearings where the majority

153 insisted that Americans would be hit by insurance rate shock.

154 Instead, the majority of new enrollees in ACA coverage are

155 paying less than \$100 a month. The majority insisted that

156 the broken Healthcare gov--.gov website would never be fixed,

157 but thank goodness it was. And millions of Americans used it

158 to sign up for coverage. They insisted that many Americans

159 would not pay for coverage once they signed up. But the

160 insurers all came in here and told us that was not correct

161 that people in fact were paying. They insisted that 2015

162 premiums would skyrocket. But again, that is proving not to

163 be true. In fact, in many cases, enrollees will be able to

164 reduce their premiums next year. They insisted that

165 Americans did not want or need health insurance coverage.

166 But over 20 million Americans have received coverage under

167 the ACA, and the insurance rate--the un-insurance rate has

168 dropped precipitously since January. The vast majority of

169 new enrollees are happy with their plans.

170 Now, these are important facts, Mr. Chairman. And in

171 the interest of making the hearing as fact based as possible,

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172 I want to talk about some fact sheets released earlier today
173 by the Energy and Commerce Democratic staff on the benefits
174 of the Affordable Care Act in every congressional district in
175 the country. I would ask unanimous consent to enter the fact
176 sheets for each committee member into the record, Mr.
177 Chairman.

178 Mr. {Murphy.} Without objection, so ordered.

179 [The information follows:]

180 ***** COMMITTEE INSERT *****

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|

181 Ms. {DeGette.} Thank you. And I just want to talk
182 about some of the benefits of the law in my home State of
183 Colorado.

184 In Colorado, there are 240,000 state residents who were
185 previously uninsured but who now have quality affordable
186 health coverage because of the Affordable Care Act. In
187 Colorado, our uninsured state residents has declined by about
188 a third. Almost 2.1 million people in Colorado, including
189 460,000 children and 860,000 women, now have health insurance
190 that covers preventative services without any copayments or
191 deductibles. Fifty thousand young adults in Colorado
192 retained health coverage through their parent's plans. More
193 than 40,000 seniors have received Medicare Part D drug
194 discounts worth \$118 million. 1.8 people in Colorado are
195 protected by ACA provisions that prevent insurance companies
196 from spending more than 20 percent of their premiums on
197 profits and administrative overhead. Because of these
198 protections, over 210,000 individuals in the state received
199 approximately \$41.7 million in insurance company rebates. Up
200 to 294,000 children in Colorado with preexisting health

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201 conditions can no longer be denied coverage by insurers.

202 So even if you disagree with the law, it is important to
203 note that the ACA is helping our constituents. I hope we can
204 end the relentless attacks and we can help more constituents
205 obtain coverage under the law.

206 We should look at the example for Medicare Part D. I
207 can attest to it, because I was here. Many Democrats,
208 including me, did not vote for the law and had real concerns
209 about how it was implemented. But we still had town hall
210 meetings and other events so that our seniors got coverage
211 that cut their drug costs. I hope we can work, as we look
212 into the next year, in a bipartisan way to make the ACA even
213 better, instead of trying to find ways to undermine and
214 repeal it.

215 Now, I appreciate the witnesses coming today. I know
216 GAO has some important insights into CMS contracting for
217 Healthcare.gov. And anything we can do to improve that
218 contracting is good for me. I hope CMS has learned from the
219 website's flawed launch. And I want to know the plan to make
220 sure they do better moving forward.

221 And I want to welcome you, Mr. Slavitt. You are new to

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222 CMS. You will have primary responsibility for the website.

223 So I hope you can tell us what you plan to do in 2015.

224 Thank you, Mr. Chairman.

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

226 ***** COMMITTEE INSERT *****

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227 Mr. {Murphy.} The gentlelady's time has expired. I now
228 recognize Dr. Burgess for 5 minutes.

229 Dr. {Burgess.} I thank the Chairman for the
230 recognition, thank Mr. Slavitt for joining us here again at
231 our Subcommittee.

232 You know, throughout the development and the rollout of
233 Healthcare.gov, this Committee--this Subcommittee had
234 repeated assurances that the systems were and would be ready
235 to go, and that the implantation was on track. At a hearing
236 in September, literally days before the October 1 launch of
237 Healthcare.gov, we had repeated assurances from the then
238 director of the Center for Consumer Information and Insurance
239 Oversight, Mr. Gary Cohen. He said unambiguously that on
240 October 1, Americans would be able to go online, would be
241 able to see premium net of subsidy, and would be able to sign
242 up. We all know now that those assertions were fact
243 challenged.

244 The Center for Medicare and Medicaid Services undertook
245 this mammoth project without effectively planning for its
246 development or its oversight. This has led to hundreds of

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247 millions of dollars of taxpayer--hundreds of millions of
248 taxpayer dollars being wasted. Again, Gary Cohen, other HHS
249 officials told us time and again that the website was
250 working. That was factually incorrect. It was not working.
251 And it still may not be working, because the backend systems,
252 those systems that are responsible for actually paying
253 providers, have not been built.

254 Consumers may be--believe the website is fixed because
255 some of the frontend problems have been addresses. But there
256 is no way to verify inaccuracies about things like
257 citizenship and income level, or insure that the correct
258 subsidies are being paid for insurance premiums.

259 Thanks to this investigation, we now have definitive
260 proof that the Department of Health and Human Services was
261 fully aware that these systems were not ready for primetime.
262 Their own contracting documents show that they only expected
263 65 percent of the federal exchange to be ready on October 1.
264 And then, of course, we are continuously reminded that the
265 promises made by the Administration simply could not be kept
266 because the groundwork had not been done and the website was
267 not prepared. We are all still wondering what happened to

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268 the promised \$2,500 in premium savings that every family in
269 America could look forward to. We are all wondering what
270 happened to the ability for people to keep their doctors. We
271 are all wondering what happened to the ability for people to
272 be able to keep their insurance plan.

273 Now, Mr. Slavitt, Mr. Cohen also was asked at his last
274 appearance here in January about the issue on the risk
275 corridors and risk sharing. The question came up about what
276 if there is not enough money in the risk corridor to actually
277 cover the premium shortfalls that the insurance companies are
278 experiencing. And would he look to--that was Mr. Cohen--
279 would he look to supplementing those funds from general
280 revenue of the Treasury of the United States. He couldn't
281 answer the question. I asked him if he could provide us with
282 a legal memorandum upon which he relied to obtain the ability
283 to get funding from other sources if they--if the internal
284 funding was not enough to cover the cost of the risk
285 corridors. That was January. I am still waiting. I would
286 like to know if I am going to receive an answer to that
287 question. And if so, when that answer might be forthcoming.

288 The fact of the matter is, both the Department of Health

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289 and Human Services and the White House failed to heed
290 internal and external warnings about the lack of readiness of
291 the exchanges. It is--now, we have the General
292 Accountability Office report. And it is astonishing to see
293 that after all the money has been spent, not all of it
294 wisely, the Agency continues to ignore recommendations and
295 continues to pump money into what may be a futile effort.

296 We are well on track to sink over \$1 billion into the
297 development of this website. We have very little to show for
298 our money. I am eager for the testimony of the witnesses
299 today. I thank the Chairman for the recognition. I will
300 yield back the time.

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

302 ***** COMMITTEE INSERT *****

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303 Mr. {Murphy.} The gentleman yields back. I now
304 recognize the Ranking Member of the Full Committee, Mr.
305 Waxman, for 5 minutes.

306 Mr. {Waxman.} Thank you very much, Mr. Chairman.

307 This is the twelfth hearing this Committee has held on
308 the Affordable Care Act since enrollment began in--October
309 2013. These hearings, if you look at them, all have one
310 purpose, to undermine the Affordable Care Act regardless of
311 the facts. The hearings have misled the public and I think
312 squandered taxpayers' dollars. In fact, the Affordable Care
313 Act is an historic success. It has made comprehensive
314 healthcare reform a reality for the American people. More
315 than eight million people have signed up for private health
316 insurance plans through the federal and state marketplaces,
317 exceeding CBO's enrollment estimates by over a million
318 people.

319 An additional 6.7 million individuals have enrolled in
320 Medicaid or the CHIP program as of May of this year. Three
321 million young adults under the age 26 have enrolled in their
322 parent's health insurance plans. And the fact sheets the

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323 Democrats put out from our staff reveal that in my district
324 alone, if I can be parochial, 17,000 residents who were
325 previously uninsured now have quality affordable health
326 coverage because of the Affordable Care Act.

327 So I am giving some perspective that the law has been a
328 success. It is accomplishing what Congress and President
329 Obama intended. Instead, we have another hearing of this
330 Committee, or another Subcommittee of this Full Committee,
331 trying to say how the Affordable Care Act has problems and
332 did things wrong and presumably should lead us to the
333 conclusion it should be repealed.

334 Well, in a lawsuit, there is a word called stipulate.
335 We can stipulate to what the GAO has reported. And they have
336 reported some things that for which we ought to be concerned.
337 Because despite the success of the law, the initial rollout
338 of Healthcare.gov had serious flaws. And I glad we are going
339 to hear from GAO, the Government Accountability Office, on
340 their investigation of Healthcare.gov contracting. We should
341 always try to learn from mistakes, not dwell on them but
342 learn from them. And I am glad that Mr. Slavitt is here to
343 tell us what the Administration has learned and what is being

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344 changed as a result.

345 I have had experience with flawed contracts. I was the
346 chairman of the Oversight Committee. And we released a
347 report that identified nearly 200 contracts worth over a
348 trillion dollars that involved significant waste fraud abuse
349 or mismanagement. The FBI had a contract to create a virtual
350 case file system that had to be cancelled after spending over
351 \$100 million. The Department of Homeland Security's contract
352 to build a high-tech border fence--that was supposed to keep
353 out all these immigrants, and we are still having problems--
354 that fence had to be canceled after wasting a billion
355 dollars. The Coast Guard had a multi-billion dollar deep
356 water contract to build boats that would not float.

357 My point is not to excuse the Healthcare.gov problems,
358 but to put them in context. With the exception of Tom Davis,
359 Congressional Republicans showed little interest in these
360 enormous wastes of taxpayers' dollars when George W. Bush was
361 President. I think we should care about waste, fraud and
362 abuse no matter who is President. And I am proud that
363 Healthcare.gov was fixed quickly. Not as quickly as I would
364 have liked, but fixed nevertheless and in time to help

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365 millions of Americans enroll for insurance coverage.

366 But I want to learn what went wrong so CMS can do a
367 better job for the next time, not the way the Republicans
368 handle this, see we told you so. There are problems, we told
369 you there would be problems. Okay. And then their
370 conclusion is, repeal it so they can replace it. But they
371 have never given us a replacement. Well, people are getting
372 insurance who couldn't get it in the past because they had
373 preexisting medical conditions. People are finding that
374 their insurance can't be canceled on them after they have
375 paid just because they got sick. Women are not discriminated
376 against. People who couldn't afford it can now get insurance
377 because we give them tax breaks in order to pay for it.

378 So I am eager to learn what the Agency is doing so
379 enrollment in 2015 goes more smoothly. We have unequivocal
380 proof that healthcare reform is a success. We now need to
381 make the 2015 enrollment period as smooth as possible so we
382 can build on the success. Let us go toward trying to make
383 things better, not dwell on things that were wrong,
384 especially if you learned the lessons and fixed the problems.

385 [The prepared statement of Mr. Waxman follows:]

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386 ***** COMMITTEE INSERT *****

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387 Mr. {Murphy.} The gentleman's time has expired. Just a
388 message to members and to our folks giving testimony today,
389 we are expecting--well, it is around 10:30, 11:00--10:25,
390 10:40 I should say. And so we are going to try to go through
391 this. I will have a quick gavel and ask all members really
392 to stick with their 5 minutes as we go through this, or I
393 will really bang it hard. And then we will move forward. If
394 we need to be interrupted by votes, we will come back right
395 after votes to complete things.

396 So now I would like to introduce the witness on the
397 first panel for today's hearing. Mr. Andy Slavitt is the
398 Principle Deputy Administrator for the Centers for Medicare
399 and Medicaid Services. In his new role, he will be
400 responsible for agency wide policy and operational program
401 coordination as part of a new management structure that comes
402 in response to lessons learned from the rollout of
403 Healthcare.gov and recommendations put forth to the
404 secretary.

405 I will now swear in the witness. Are you aware that the
406 Committee is holding an investigative hearing, and when doing

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407 so has the practice of taking testimony under oath? Do you
408 have any objections to testify under oath?

409 Mr. {Slavitt.} No, I don't.

410 Mr. {Murphy.} And the Chair advised you that under the
411 rules of the House and rules of the Committee, you are
412 entitled to be advised by Counsel. Do you desire to be
413 advised by Counsel during today's testimony?

414 In that case, would you please rise, raise your right
415 hand? I will swear you in.

416 [Witness sworn]

417 Mr. {Murphy.} Thank you. The witness answered the
418 affirmative, so you are now under oath and subject to the
419 penalties set forth in Title XVIII, Section 1001 of the
420 United States Code. You may now give a 5-minute summary of
421 your written statement, Mr. Slavitt.

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422 ^TESTIMONY OF ANDREW SLAVITT, PRINCIPAL DEPUTY ADMINISTRATOR,
423 CENTERS FOR MEDICARE AND MEDICAID SERVICES

424 } Mr. {Slavitt.} Good morning, Chairman Murphy, Ranking
425 Member DeGette, and members of the Subcommittee. I am Andy
426 Slavitt, Principle Deputy Administrator of CMS.

427 I joined CMS 3 weeks ago from the private sector where I
428 spent the last 20 years principally working with physicians,
429 hospitals, health plans and employers on solutions to
430 problems of healthcare cost, quality and access. In the
431 private sector, I both started my own healthcare technology
432 business and run larger scale health services organization
433 with more than 30,000 employees.

434 In late October of last year, I began my involvement
435 with the Affordable Care Act implementation when I joined a
436 group of people helping the CMS team on the turnaround effort
437 of the health insurance marketplace. I am very pleased to
438 appear before you today. And before answering your
439 questions, will briefly walk you through some of the progress
440 of the Affordable Care Act to date and talk about our

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441 priorities for the coming period.

442 There is growing evidence that suggests that the
443 Affordable Care Act is making a difference in the lives of
444 millions of Americans. In the first full year, millions of
445 Americans selected a private insurance plan through the state
446 or federal health exchange marketplace, and millions more
447 have retained coverage on their parent's policies or have
448 qualified for Medicaid or CHIP.

449 In addition, we are seeing historically low growth in
450 overall health spending, which has continued into 2014. This
451 is good news for consumers with the typical premium paid for
452 a policy purchased in the marketplace under \$100, and good
453 news for taxpayers as the recent Medicare Trust Fund report
454 shows. And, importantly, this success is not being achieved
455 by government policy alone, but in partnership with the
456 private sector as insurers grow by competing to provide
457 better access to quality affordable services.

458 Now, as we move into our second year of marketplace
459 implementation, we must build on the progress that is
460 underway and heed the lessons of the last year. Let me
461 outline for you our highest priorities. First, we are

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462 focused on increasing the value consumers get when they come
463 to the marketplace. This means continuing to improve the
464 information, plan options and affordability of the shopping
465 experience.

466 Second, we have critical technical and operation
467 priorities. We must continually add automation. That has
468 begun with critical releases this summer and will continue
469 this year and in following years. While the consumer facing
470 website is of course live, we are adding functionality to
471 allow consumers to easily renew their coverage. Whether on
472 the consumer facing side or the backend, our technology
473 improvements will be more continuous and more incremental.
474 We have a very strong sense of our critical path. Our
475 software releases so far have been on time, and we are
476 managing these deliverables daily.

477 Third, let me address our management priorities to
478 improve execution. As part of the turnaround team, I
479 experienced firsthand the challenges of the first year of
480 marketplace implementation. And at CMS, I am now helping to
481 oversee a series of changes to improve the management of the
482 marketplace. As Secretary Burwell announced in June, we have

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483 created clear, top-down accountability. We have also
484 improved the management end of and communication with our key
485 contractor with better defined requirements, metrics driven
486 contract reviews and requirements for skinning the game. We
487 have expanded our testing protocols and built more testing
488 into the schedule.

489 Even as we address the major concerns from last year,
490 new ones will emerge. And our management structure and team
491 must surface and address issues in a disciplined manner, just
492 as we did during the turnaround.

493 This coming year will be one of visible and continued
494 improvement, but not perfection. We are in the early stages
495 of a program newly serving millions of consumers and are
496 still learning about the best ways to support their unique
497 needs. And we are setting up and testing new processes and
498 new technologies along the way.

499 From my experience at this stage, businesses begin to
500 see how closely their design matches the battle tested needs
501 of the market. Good organizations focus, prioritize and
502 learn and continuously improve their operations and the
503 services they provide. It is not always easy, but we

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504 understand what we need to do and are making the right
505 progress to have a successful open enrollment, and continue
506 to deliver on the promise of the Affordable Care Act to
507 improve healthcare access, cost and quality for all
508 Americans.

509 Thanks, and I look forward to your questions.

510 [The prepared statement of Mr. Slavitt follows:]

511 ***** INSERT 1 *****

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|

512 Mr. {Murphy.} Thank you. I appreciate your comments
513 and appreciate your candor here before, because my--back--my
514 very first job when I was a young man was mucking out horse
515 stalls. And I felt like the difference between--but what I
516 got to do was I got to ride the horses. So it was a nice
517 reward. The difference between that job and this job is I
518 don't get to ride the horses anymore. So I appreciate your
519 honesty and candor in this. And I want to ask you some
520 questions on those lines. You may recall that a year ago,
521 Congress was told repeatedly the Healthcare.gov website was
522 fine, it was ready. The months, days and weeks leading up to
523 it, everything was ready to go. And the President said it
524 would mirror the public's experience with other websites. So
525 we have to ask, will Healthcare.gov be fully ready this fall?

526 Mr. {Slavitt.} Thank you, Chairman. So I obviously
527 wasn't here last year. It does sound like certainly from the
528 GAO report that I have seen that a couple of things happened.
529 First, the technology build was certainly bigger and more
530 complicated than people expected. And I think the scope
531 expanded because of that. And, secondly, as the GAO pointed

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532 out, there were some significant issues with the management
533 of the project.

534 Mr. {Murphy.} But for the future? Because you said it
535 wouldn't be perfection. So are there going to be hiccups
536 this fall, too?

537 Mr. {Slavitt.} I am sorry?

538 Mr. {Murphy.} Are there going to be some hiccups in the
539 website implementation this fall?

540 Mr. {Slavitt.} I think this year, we can expect--we are
541 in a vastly different situation. For one, we have a website
542 that is already up and live and running.

543 Mr. {Murphy.} Yeah.

544 Mr. {Slavitt.} We are adding continued improvements.
545 And we are adding them in a much less risky fashion. We are
546 doing releases frequently over the course of the summer,
547 putting things live into production. We have built in a big
548 testing window. So, you know, everybody will remain on their
549 toes and nervous. Everybody knows what they need to do.

550 Mr. {Murphy.} But I--

551 Mr. {Slavitt.} But we are expecting to have a good open
552 enrollment.

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553 Mr. {Murphy.} But the GAO said there were still
554 significant risks for the next open enrollment period. So
555 you are saying everything is going to be fine and ready?

556 Mr. {Slavitt.} I think our job is to manage those
557 risks, understand those risks, surface them and--

558 Mr. {Murphy.} I don't want to take out my shovel. I
559 just want to know--because if there is going to be problems,
560 I would much rather you just tell the Committee look, we
561 anticipate these problems, here is the actions we are taking
562 to move forward. I think the whole Committee would
563 appreciate that so we don't have to get caught up in this
564 guess game.

565 Mr. {Slavitt.} Yeah. Sure. Well, I expect that it
566 won't be perfect with serving millions of people.

567 Mr. {Murphy.} Okay.

568 Mr. {Slavitt.} There are certainly difficult
569 situations. People are--many of whom are enrolling in
570 insurance for the first time. It is a bumpy process at
571 times. I think we have got a committed team of people though
572 that by and large are doing a very good job, but there will
573 clearly be bumps.

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574 Mr. {Murphy.} Any anticipation how many more people you
575 will be enrolling in the fall, or how many will be enrolling
576 for the first time?

577 Mr. {Slavitt.} I don't know that.

578 Mr. {Murphy.} Do you know in terms of your review of
579 this, so far of those who have enrolled how many of those
580 have enrolled for the first time?

581 Mr. {Slavitt.} I have only seen the media reports,
582 which I can't pull a number. But it was I think far greater
583 than a half. But I have only seen that in the media.

584 Mr. {Murphy.} When Secretary Sebelius was here before,
585 I asked her a series of questions. I will repeat those to
586 you. But I asked her, how many were new. How many were
587 people who previously had insurance and got a pink slip and
588 was discontinued. How many were people who were newly
589 eligible because of Medicaid. And of all those who signed
590 up, how many were paying the same, less or more.

591 Mr. {Slavitt.} Um-hum.

592 Mr. {Murphy.} And she said really the website has no
593 way--there is no way of knowing any of those things. Would
594 you agree that is true?

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595 Mr. {Slavitt.} Yeah. I think that data is not yet
596 known by us. I think we are getting a beat as--on what
597 premiums people are paying. So that is good. We have a
598 sense that there is good affordability offered to--

599 Mr. {Murphy.} But when we--so we see these numbers on
600 how many people signed up, 10 million, 11 million, whatever
601 it is, compared to the 45 million for which there was a need
602 for health insurance, we really still don't know how many of
603 that original 40, 45 million are served new by this.

604 Mr. {Slavitt.} So the Administrator has a chart in her
605 office which she calls her prettiest picture, and it is a
606 graph of the uninsured rate over time. And it shows a drop
607 to a 13 percent--

608 Mr. {Murphy.} So is that specifically reviewed by your
609 office or by HHS to specifically look at people who are
610 uninsured before and now are insured? Because you just told
611 me that you can't really determine that, and Secretary
612 Sebelius told me there was no way of knowing that.

613 Mr. {Slavitt.} Yeah. It is--there is no way to
614 determine that from the website.

615 Mr. {Murphy.} Okay.

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616 Mr. {Slavitt.} We do know the uninsured rate from the
617 recent Gallup Report is down to 13 percent.

618 Mr. {Murphy.} Have you tried to sign up for one of the
619 plans on the website?

620 Mr. {Slavitt.} I have--now that I am a federal
621 employee, I am in the FEHBP Blue Cross plan.

622 Mr. {Murphy.} So you don't have to be in the Affordable
623 Care Act yourself?

624 Mr. {Slavitt.} I am a federal employee.

625 Mr. {Murphy.} Yeah, well okay. And I am just curious,
626 have you also reviewed with people if they have tried to
627 access their physicians? The plan allows an initial visit
628 and some other preventative care--not as much preventative
629 care as I would like. But have you surveyed persons to find
630 out if they have been able to see their physicians for
631 follow-up appointments, their costs for example--to review
632 their costs, their payment levels, their copay, their
633 deductibles, have you reviewed any of those things? And--

634 Mr. {Slavitt.} I will have to get back to you on that.
635 I don't think we have any hard data, but I can certainly look
636 and try to follow-up.

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637 Mr. {Murphy.} Thank you. I will keep track of time
638 here. And, Ms. DeGette, you are recognized for 5 minutes.

639 Ms. {DeGette.} Thank you, Mr. Chairman.

640 So I agree that it is important to make the federal
641 exchange website, and also the states, work as well for
642 people. And I am sure, Mr. Slavitt, you agree with that too,
643 don't you?

644 Mr. {Slavitt.} Yes, I do.

645 Ms. {DeGette.} And we want to make it as easy as we can
646 for people to enroll. And especially as we reenroll in the
647 2015 plans, is that correct?

648 Mr. {Slavitt.} That is correct, Congresswoman.

649 Ms. {DeGette.} Now--up till now, even despite the
650 admitted problems with the website, eight million people
651 enrolled in the marketplaces, is that correct?

652 Mr. {Slavitt.} Correct.

653 Ms. {DeGette.} And about 6.7 million enrolled in the
654 Medicaid expansion, is that right?

655 Mr. {Slavitt.} That is right.

656 Ms. {DeGette.} So, obviously, people were able to
657 utilize those websites to get health insurance, is that

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658 right?

659 Mr. {Slavitt.} That is correct.

660 Ms. {DeGette.} Now, I was looking at the part of the
661 GAO report, and the GAO made five recommendations in the
662 report. Are you aware of that?

663 Mr. {Slavitt.} Yes, I am.

664 Ms. {DeGette.} And what is your opinion of those
665 recommendations?

666 Mr. {Slavitt.} We agree with most of those
667 recommendations.

668 Ms. {DeGette.} Which ones do you agree with?

669 Mr. {Slavitt.} I think the only thing in the GAO report
670 that I think needs a little further clarification--it is not
671 that I don't necessarily agree with it, it is the
672 characterization of the Accenture contract. And I think it
673 was characterized as ballooning in cost when in fact I think
674 the Accenture contract was--there was an initial contract
675 before the work was completely scoped--

676 Ms. {DeGette.} Okay. Let me stop you, because that was
677 one of their findings. But that wasn't one of their
678 recommendations.

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679 Mr. {Slavitt.} Correct.

680 Ms. {DeGette.} Their recommendations--

681 Mr. {Slavitt.} So I agree with all their

682 recommendations.

683 Ms. {DeGette.} You agree with all five of their

684 recommendations. And what steps are you taking to implement

685 those recommendations?

686 Mr. {Slavitt.} So we are doing a number of things.

687 First of all, in the contracting front, it is very clear now

688 who can give work to Accenture, how work gets approved, how

689 that contract gets managed and, frankly, importantly,

690 Accenture has skin in the game to make sure that they

691 deliver. There is a--again, I wasn't here last year, so I

692 can't speak precisely to how the project was managed. But I

693 can tell you that now, there is daily intensive management of

694 the project. The risks and issues and concerns are also

695 surfaced and dealt with. We have built early warning

696 indicators, so there is an--and there is an accountability

697 difference that I think is very significant.

698 Ms. {DeGette.} Are you looking at the interoperability

699 issues as well? That was one of the problems we had before.

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700 Mr. {Slavitt.} This is, as you point out,
701 Congresswoman, many different pieces of this project in order
702 to go well. And so the coordination and the systems
703 integration is something that I think was missing last year.
704 And it is in place this year.

705 Ms. {DeGette.} Now, are you doing anything that goes
706 beyond the recommendations in this GAO report, Mr. Slavitt?

707 Mr. {Slavitt.} Yes. Well, fortunately or
708 unfortunately, the GAO report wasn't news to the people at
709 CMS. I think the people at CMS who worked awfully hard but
710 lived through that nightmare don't want to go through that
711 again. So I think actions were underway well before seeing
712 this report. And I think they fall into the categories that
713 I have talked about, contracting reform, technical and
714 managerial oversight, focused and disciplined project
715 management.

716 Ms. {DeGette.} Now, we keep hearing about how expensive
717 the cost overruns and everything else in setting up
718 Healthcare.gov were. I--just as an aside, Mr. Chairman, I
719 would like to know how much this lawsuit against the
720 President is going to cost. But be that as it may, Mr.

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721 Slavitt, I want to ask you do you think we are going to be
722 protected from cost overruns for the 2015 enrollment period?

723 Mr. {Slavitt.} So again, I wasn't here last year. But
724 the two things that went wrong last year, one of them
725 actually was simply the inability for anybody, and quite
726 reasonably so--and this happens in the private sector--to
727 estimate how big this project is and how complex it is. We
728 have got a better handle on that now. I don't expect those
729 overruns.

730 Secondly, to the point of the GAO report, the contractor
731 wasn't managed tightly with clear deliverables and
732 requirements. That has been put to bed as well. So those
733 two things are in much, much better shape.

734 Ms. {DeGette.} And were you aware--one last question.
735 Were you aware that the uninsured rate in this country
736 dropped 25 percent after the implementation of Healthcare.gov
737 and the full implementation of the ACA?

738 Mr. {Slavitt.} Yes. Yes, Congressman, that sounds
739 right.

740 Ms. {DeGette.} Thank you. I will yield back, Mr.
741 Chairman.

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742 Mr. {Murphy.} I will recognize--who is next--Mr. Harper
743 for 5 minutes.

744 Mr. {Harper.} Thank you, Mr. Chairman. And thank you
745 for being here today. And I have a couple of questions I
746 would like to ask.

747 First of all, who is performing the role of systems
748 integrator now? Who has got--who is doing that?

749 Mr. {Slavitt.} Optum. The firm is Optum.

750 Mr. {Harper.} Okay. I am sorry.

751 Mr. {Slavitt.} My prior company.

752 Mr. {Harper.} And so who has that role now?

753 Mr. {Slavitt.} Optum. The firm Optum does.

754 Mr. {Harper.} Okay.

755 Mr. {Slavitt.} Plays that role.

756 Mr. {Harper.} I got you. Yeah. Some questions I would
757 like to ask about some reports. Early this summer, we
758 learned that there were nearly four million inconsistencies
759 in the applications submitted via Healthcare.gov. Those
760 inconsistencies are primarily for citizenship status or
761 income. The failure to calculate these properly could mean
762 that millions of Americans could have to pay back incorrectly

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763 calculated subsidies. So earlier this summer, it was
764 reported that there were millions of these. First of all,
765 how did this happen? And can't the website check for
766 accuracy?

767 Mr. {Slavitt.} Sure. So appreciate the question.
768 Inconsistencies occur because of the changes that occur in
769 peoples' lives. And people end up having more current
770 information than government databases. So we run last year,
771 during open enrollment, hundreds of millions of checks
772 against government databases to check on income and
773 citizenship status and so forth. And in some occasions where
774 people particularly are in low-wage jobs, they are in
775 seasonal work and other kinds of circumstance, their income
776 is unpredictable. Or in other cases, they haven't file taxes
777 before because they haven't made enough money. So what
778 happens when that happens--and just to give you a perspective
779 on this, for a typical family of four, there are 21 records
780 searched through our automated process. If even one of those
781 records turns up not to be a match because of income or some
782 other thing, we have to pursue documentation. And we do
783 indeed pursue documentation to try to ensure that these

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784 people are in fact telling the truth. And we have done that-

785 -

786 Mr. {Harper.} How--

787 Mr. {Slavitt.} I am sorry?

788 Mr. {Harper.} How could a person on the form be a
789 citizen or not be a citizen? Is that something that is you
790 can verify?

791 Mr. {Slavitt.} There is documentation status. There
792 is--whether it is a naturalization status and so forth.
793 Those are sometimes not as current in the government database
794 as what the individual resident has in fact in their life.

795 Mr. {Harper.} So in an application--one application
796 could have multiple inconsistencies, correct?

797 Mr. {Slavitt.} That is correct.

798 Mr. {Harper.} And do you have a number of how many
799 Americans were affected by this problem?

800 Mr. {Slavitt.} So I think there were a couple of
801 million people who had--inconsistent information that needed
802 to be matched of some form or another. About--I would say
803 roughly half of those are income changes. So these are
804 people who will have to have--come back to the website--and

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805 we are urging people to do that--and make some adjustment,
806 because it will spill out of course on their tax form. Of
807 the other half, we have cleared, as of July 1, 425,000
808 inconsistencies. And 90--greater than 90 percent of those
809 are indeed in favor of the individual consumer who had more
810 up to date information than we did.

811 Mr. {Harper.} You know, and this is obviously something
812 we want to make sure doesn't continue. So what assurances
813 can you give us today that we won't see these problems during
814 the next enrollment period?

815 Mr. {Slavitt.} Well, I think--we are learning is that a
816 certain amount of these data discrepancy problems are going
817 to be a fact of life.

818 Mr. {Harper.} Yeah.

819 Mr. {Slavitt.} Because of the fact that we have people
820 who do have variations--high variations in their income
821 levels. And so that is going to occur in coming years. What
822 is going to be different next year is we have now just
823 released software that allows us to get at those
824 inconsistencies much more quickly. What is important though
825 is that people who we reach out to and we need additional

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826 documentation from, get in touch with us and get them back to
827 us.

828 Mr. {Harper.} Thank you, sir. And I will yield back.

829 Mr. {Murphy.} Mr. Tonko for 5 minutes?

830 Mr. {Tonko.} Thank you, Mr. Chair. Mr. Slavitt,
831 welcome.

832 And you earlier went through some national stats. And I
833 have received information on my district who have been
834 waiting to get info. And in the 20th congressional district
835 in New York, 11,000 residents who were previously uninsured
836 now have quality, affordable health coverage because of ACA.
837 The number of uninsured residents in my district has declined
838 by some 23 percent. 214,000 individuals in the district,
839 including 137,000 women and 54,000 children now have health
840 insurance that covers preventative services without any
841 copays, coinsurance or deductible. And 262,000 individuals
842 in my district now have insurance that cannot place annual or
843 lifetime limits on their coverage. And up to 37,000--37,000
844 children in my district with pre-existing conditions can no
845 longer be denied coverage for health insurance purposes.

846 I think that is a tremendous bit of improvement. We

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847 obviously want to continue to grow those numbers. But it is
848 comforting to know that that kind of success is coming the
849 way of our district.

850 And so, Mr. Slavitt, part of the promise of creating the
851 one-stop marketplaces was the ability to shop for health
852 plans side-by-side and then apply in an apples to apples
853 comparison. While the federal Healthcare.gov site has done a
854 good job in this regard in displaying the premiums and
855 deductibles of various plans, it has been more difficult to
856 assess differences in health plan networks or whether a
857 particular doctor is in-network for a given plan. Could you
858 tell us what CMS is doing to make it easier for consumers to
859 access this information in advance of the upcoming open
860 enrollment period?

861 Mr. {Slavitt.} Thank you, Congressman. So you are
862 indeed correct. And in fact in last year, I believe the
863 typical consumer had dozens--several dozens of options to
864 choose from in health insurance. And our job is to try to
865 continue to grow that. But as you point out, we have to make
866 the information people are looking for more readily apparent
867 and more easy to see. So we are asking the insurance

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868 companies this year to put direct links to the provider
869 directory that fits the individual plan. But I would also
870 just ask consumers to do, and I would ask if you would talk
871 to people in your district, is that those directories that
872 the insurance companies keep, they are not always up to date.
873 They try to keep them up to date. But it is always good to
874 call the insurance company or to check with your--if there is
875 a physician that you want to see to make sure that they are
876 in the network, because this is really important information
877 for people to choose from.

878 Mr. {Tonko.} Okay. And in terms of allowing a consumer
879 for example to search only for plans in which their doctor is
880 covered, could--

881 Mr. {Slavitt.} We don't have that ability. That is the
882 kind of thing that might come in future years.

883 Mr. {Tonko.} What kind of obstacles stand in the way of
884 that happening?

885 Mr. {Slavitt.} You know, I think one of the lessons
886 learned from this project is to take disciplined incremental
887 steps to making progress, not trying to do too much. And,
888 you know, this--our schedule is pretty much filled with

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889 things that are important to make sure we are executing well.
890 And I think those are the kinds of innovations that I could
891 really see us getting excited about adding in future years.
892 But it didn't make the cut this year.

893 Mr. {Tonko.} Um-hum. And if I could just ask you a
894 quick question about the Medicare Trust Fund? The trustee's
895 report, as you know, came out on Monday. And they are
896 talking about the fund being secure through 2030. That is 13
897 years longer than was projected in 2009 when the ACA was
898 passed. The report noted that these changes may be due to
899 the cost saving provisions of the ACA. Do you believe that
900 to be correct?

901 Mr. {Slavitt.} Well, I am not going to hold myself out
902 as an expert, but it sounds logical.

903 Mr. {Tonko.} And in fact, since passage of the ACA, the
904 Medicare costs have grown at or near record lows, is that not
905 correct?

906 Mr. {Slavitt.} That is correct.

907 Mr. {Tonko.} So would you anticipate any continuing or
908 additional benefits coming via Medicare?

909 Mr. {Slavitt.} Yes, I would.

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910 Mr. {Tonko.} Okay. Well, we appreciate the leadership
911 that you have born with the ACA. And we thank you for the
912 improvements. And I know on behalf of the district that I
913 represent, the numbers are very encouraging. I share them
914 with you here this morning, and we are going to continue to
915 work to further improve so that one of these fundamental
916 rights, the affordable and accessible quality healthcare for
917 all, is continued. So--and strengthened.

918 So with that, I yield back. And thank you, Mr. Chair.

919 Mr. {Murphy.} The gentleman's time has expired. Now, I
920 recognize Mr. Griffith for 5 minutes.

921 Mr. {Griffith.} Thank you, Mr. Chairman. I do
922 appreciate that. Mr. Slavitt, thank you for being here this
923 morning.

924 You have indicated and testified that you were
925 previously employed by Optum/QSSI, is that correct?

926 Mr. {Slavitt.} That is correct.

927 Mr. {Griffith.} And I think I heard you say in your
928 opening statement that you left their employee approximately
929 three weeks ago, is that also correct?

930 Mr. {Slavitt.} A little longer than that. Yes, that is

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931 correct.

932 Mr. {Griffith.} A little longer, how long?

933 Mr. {Slavitt.} I could get you the exact date.

934 Mr. {Griffith.} Well, I don't need the exact date.

935 Four--between 3 and 4 weeks?

936 Mr. {Slavitt.} Yeah, yeah, yeah. You are--something in
937 that nature.

938 Mr. {Griffith.} Okay.

939 Mr. {Slavitt.} Yeah.

940 Mr. {Griffith.} Here is the question. You now work for
941 CMS.

942 Mr. {Slavitt.} Um-hum.

943 Mr. {Griffith.} And from what I understand, you are a
944 very talented individual. And that is a good thing for CMS.
945 But if I understood your testimony as well, you have
946 indicated that your previous employer is managing the website
947 as the systems integrator, is that correct?

948 Mr. {Slavitt.} Um-hum. That is correct.

949 Mr. {Griffith.} Okay. So then the natural question, as
950 an oversight committee is, how are you able to manage your
951 former employer? And doesn't this create a conflict of

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952 interest?

953 Mr. {Slavitt.} Sure. Thank you for the question. So,
954 Congressman, there is, as you know, an ethics pledge that I
955 signed. And along with that, disposed of all of my stock
956 basically that I had had in the company.

957 Mr. {Griffith.} I--

958 Mr. {Slavitt.} It is completely clear. I recused
959 myself.

960 Mr. {Griffith.} You disposed of all of your stock? You
961 said basically.

962 Mr. {Slavitt.} Yeah, all of--yes.

963 Mr. {Griffith.} Okay.

964 Mr. {Slavitt.} I am--yes, I am not trying to qualify
965 that.

966 Mr. {Griffith.} I didn't think you were, but I wanted
967 to make sure on the record that you are saying you got rid of
968 all of your stocks.

969 Mr. {Slavitt.} Okay. Thank you. Yes, I got rid of all
970 my stock and any other ties, as appropriate. I have signed--
971 and I am not qualifying with as appropriate--as was
972 appropriate. So now as a public servant, I have a very clear

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973 set of rules to follow. I have a--this ethics pledge. And
974 then within that ethics pledge, I have a limited waiver which
975 allows me for the purposes of health reform implementation
976 only on the website to be able to interact with all of the
977 contractors, including Optum, as it solely benefits the
978 implementation of the project. And so I do that and exercise
979 that very carefully and very prudently. But that is a
980 publicly available waiver that I can make sure to get to you,
981 if you would like.

982 Mr. {Griffith.} If you would, that would be great.

983 Mr. {Slavitt.} Okay.

984 Mr. {Griffith.} And then I would like to talk about
985 that waiver process. Because normally, in my experience,
986 when you move from the private sector into the public sector,
987 there is usually some kind of a period of not dealing with
988 your former employer. That is usually a year or more. And
989 if you could explain that process, how they came to this?
990 And you said it was a limited waiver. We can certainly look
991 at that later. But if you could explain that process, I'd
992 appreciate it.

993 Mr. {Slavitt.} Yeah. So it is I think a 15-page

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994 document, which is--and I can get you the details. But--

995 Mr. {Griffith.} I would appreciate that.

996 Mr. {Slavitt.} But it is a--2 years is the waiver. And
997 I think the only exception--I am sorry, 2 years is the
998 agreement not to communicate with my old employer. And then
999 there is this narrow exception for interaction relative to
1000 this implementation process.

1001 Mr. {Griffith.} All right. And I appreciate that. Let
1002 me ask you some questions about your former employer, because
1003 Optum/QSSI is a subdivision or is a subsidiary of
1004 UnitedHealth Group, isn't that correct?

1005 Mr. {Slavitt.} That is correct.

1006 Mr. {Griffith.} And in their 4/17 quarter one of this
1007 year earnings call, the UnitedHealth Group President and CEO,
1008 Steven J. Helmsley, recognized employees and said that, you
1009 know, we try to move our employees around in different
1010 divisions of the company. And so I am a little concerned
1011 about how much of a firewall is built between Optum/QSSI and
1012 UnitedHealth Group, because UnitedHealth Group is
1013 participating in some of the exchanges and in the federal
1014 exchange. And so we have a situation where again there is an

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1015 appearance of a conflict or inpropriety because if you are
1016 shifting folks around, I said to one of my staffers this
1017 morning, what do they have a machine like they did on Men in
1018 Black and they zap their memories and they remember nothing
1019 that they saw? Because it would appear that the folks at
1020 QSSI who then report to UnitedHealth Group--and, in fact,
1021 Larry Renfrow is--has an office--a title or a hat in both
1022 companies. And if that is the case, aren't they able then to
1023 gain information on competitors by participating in the
1024 process and in all these meetings, and then get an advantage
1025 over their competitors in the healthcare websites?

1026 Mr. {Slavitt.} So let me clarify two things.

1027 Mr. {Griffith.} Okay. Please.

1028 Mr. {Slavitt.} First, nobody on the Healthcare.gov
1029 project is permitted to go back and to go outside of the
1030 project and transfer into United Healthcare. That is
1031 expressly prohibited. Secondly, just to--just an important
1032 clarification, because it is a little bit confusing. United
1033 Healthcare and UnitedHealth Group are two different things.
1034 So UnitedHealth Group is a parent company that has two
1035 divisions.

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1036 Mr. {Griffith.} Right.

1037 Mr. {Slavitt.} One is called Optum. One is United
1038 Healthcare. And so I don't want anybody to have the
1039 impression that Optum is a part of this insurance company.
1040 It is actually a sister company, a separately run entity--

1041 Mr. {Griffith.} Well, but it is a wholly un-subsidiary,
1042 is it--

1043 Mr. {Slavitt.} Correct. Correct.

1044 Mr. {Griffith.} Okay. All right.

1045 Mr. {Murphy.} The gentleman's time has expired.

1046 Mr. {Griffith.} Thank you. I will have some follow-up
1047 questions and will present for answers after the meeting.
1048 Okay. Thank you.

1049 Mr. {Murphy.} Thank you. I now recognize Ms. Castor
1050 for 5 minutes.

1051 Ms. {Castor.} Thank you, Mr. Chairman. Good morning.

1052 Throughout the country, everyone is seeing the benefits
1053 of the Affordable Care Act. And as of today, Americans who
1054 are interested can access new fact sheets that provide
1055 statistics based upon each congressional district. So I
1056 encourage you to go to the Democratic website of the Energy

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1057 and Commerce Committee and--or call your member, and we can
1058 provide those.

1059 Now, I want to share some facts about the benefits of
1060 the law in my Florida district in the Tampa Bay area. There
1061 are over 24,000 individuals in my district who were
1062 previously uninsured but now have quality, affordable health
1063 coverage because of the Affordable Care Act. The number of
1064 uninsured in my district has declined by 15 percent. Now,
1065 that could have been higher if the Republican controlled
1066 legislature and our governor would have expanded Medicaid in
1067 Florida. In fact, almost a million additional residents,
1068 Floridians, could have health insurance. That is 43,000 of
1069 my neighbors in the Tampa Bay area who could have been
1070 covered, but they remain uninsured because Florida refused to
1071 expand Medicaid. But over 40,000 people in my district were
1072 able to purchase coverage through the new health insurance
1073 marketplace, and nearly 10,000 young adults were able to
1074 retain coverage through their parent's plans. 43,000 of my
1075 older neighbors received Medicare Part D prescription drug
1076 discounts worth \$8.2 million. I mean, that is a great shot
1077 in the arm and terrific money back into their pockets.

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1078 So as we plan for the second year of open enrollment, we
1079 all want to make sure that we don't have the computer
1080 problems that we had last go around. So I want to ask you
1081 some questions about premiums, especially for the 2015
1082 period. Now, open enrollment begins in November, is that
1083 correct?

1084 Mr. {Slavitt.} Correct.

1085 Ms. {Castor.} November--

1086 Mr. {Slavitt.} 15.

1087 Ms. {Castor.} 15.

1088 Mr. {Slavitt.} Yeah.

1089 Ms. {Castor.} So folks need to at some point--when will
1090 the website be ready to compare plans?

1091 Mr. {Slavitt.} So we are going to be sending out
1092 notices to people starting in October to come back to the
1093 website, update their information and letting them know that
1094 on November 15, they will be able to either, if they choose,
1095 come back to the website, shop for a plan, compare premiums
1096 and chose the plan they want, or as happens with Medicare
1097 Part D, Medicare Advantage and most employers, if they choose
1098 to do nothing, they will be able to automatically reenroll if

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1099 their existing plan is offered.

1100 Ms. {Castor.} Okay. And the deadline is in February--

1101 Mr. {Slavitt.} February 15.

1102 Ms. {Castor.} February 15 of 2015.

1103 Mr. {Slavitt.} 2015.

1104 Ms. {Castor.} Now, Republicans have predicted that

1105 premiums would skyrocket for the next go around, increasing

1106 by as much as 50 percent. But we can now test those numbers

1107 because the new rates are rolling out across the country.

1108 Are there any signs of the out of control rate increases that

1109 the Republicans have predicted?

1110 Mr. {Slavitt.} So far, the rate increases that have

1111 been publicly available from Rhode Island, Washington,

1112 Delaware have all been in the mid-single digits. California,

1113 I believe has a big--is going to come out with their numbers

1114 today. So I think that will be closely watched, because of

1115 the size of the state. Colorado's I believe have been very

1116 steady by and large. So while this isn't going to be true

1117 for every single individual in every single county in

1118 America, by and large the early results look positive--very

1119 positive.

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1120 Ms. {Castor.} Great. And your--is it accurate to say
1121 that there are more choices in the marketplace this go
1122 around, or will it depend upon the state?

1123 Mr. {Slavitt.} By--there will be more choices this year
1124 than last year.

1125 Ms. {Castor.} So what does competition tend to do when
1126 you have--when consumers have more choices?

1127 Mr. {Slavitt.} Better prices, better value, better
1128 services.

1129 Ms. {Castor.} Does that mean that if you have greater
1130 competition that puts pressure on the insurance companies to
1131 keep their premiums low?

1132 Mr. {Slavitt.} I think this is one of those win-win
1133 situations where the private sector can grow by actually
1134 providing more value to consumers. And that appears to be
1135 what is happening.

1136 Ms. {Castor.} And what else helps keep premiums low
1137 under the Affordable Care Act?

1138 Mr. {Slavitt.} Well, certainly, the preventive visits
1139 do. The ability for people to qualify for tax credits. You
1140 know, I think there is a whole host of things that--

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1141 Ms. {Castor.} You know, one of my favorite ones--what
1142 we did in the Affordable Care Act is the 80/20 rule, the
1143 medical loss ratio that says when a consumer purchases a
1144 policy, they have to get something meaningful. And insurance
1145 companies can't spend too much on profits and administrative
1146 costs. And when they do, they have to rebate the money back
1147 to consumers. And for my--because I represent the State of
1148 Florida, we are really happy that our consumers are going to
1149 receive \$42 million back this summer. I have already heard
1150 from many of our--my neighbors. And sometimes those rebates
1151 go back to the employer. So you do need to keep an eye,
1152 isn't that right?

1153 Mr. {Slavitt.} Yes. In fact, the numbers that I have
1154 seen are that something like \$9 billion has been returned and
1155 saved to consumers in that process.

1156 Ms. {Castor.} That has been very important in this day
1157 and age. Thank you very much.

1158 Mr. {Murphy.} The gentlelady's time has expired. I now
1159 recognize Mr. Johnson for five minutes.

1160 Mr. {Johnson.} Thank you, Mr. Chairman. Mr. Slavitt,
1161 it is good to see you today. You and I have had chances to

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1162 interact before, and I appreciate you being with us. I agree
1163 with Mr. Griffith, based on your background, it looks like
1164 CMS is going to be the beneficiary of your experience and
1165 background.

1166 Mr. {Slavitt.} Thank you.

1167 Mr. {Johnson.} You have talked about your many years in
1168 the private sector. Could you give a very quick summary of
1169 your years of experience and expertise and what it primarily
1170 focused on?

1171 Mr. {Slavitt.} Sure. So I started my own health
1172 information technology company back in the '90s. It was a
1173 small business that ended up serving consumers. I ended up
1174 selling that business. I worked with Optum for a number of
1175 years. I oversaw the health information technology business
1176 and grew that. I worked very closely on building lots of
1177 industry wide capabilities around things like revenue cycle
1178 management, population health management. I worked closely
1179 with hospitals, with physician groups, with health insurance
1180 plans, state governments, all really focused on quality, cost
1181 and access issues.

1182 Mr. {Johnson.} Okay. And to summarize, I think when

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1183 you were responding to Mr. Griffith's questions, you led the
1184 team that basically made Healthcare.gov usable in October,
1185 correct?

1186 Mr. {Slavitt.} That is correct.

1187 Mr. {Johnson.} Okay. So I want to ask you, you have
1188 all of those years of experience and expertise in information
1189 technology, specifically in the healthcare arena. How much
1190 should Healthcare.gov have cost?

1191 Mr. {Slavitt.} That is a really good question, and I am
1192 not sure I know the answer to it. It is a--it is not unusual
1193 for large scale health projects--for example, I can think of
1194 big projects from Kaiser Permanente when they installed
1195 electronic medical records, cost a couple billion dollars to
1196 put in place. It is hard to know what the benchmark is to
1197 build a consumer facing website and set of backend systems to
1198 connect to 50 states to Medicaid plans, to insurance
1199 companies. So I am not quite sure.

1200 Mr. {Johnson.} Well, let me help you a little bit.
1201 Because I don't know if you remember or not, but my
1202 background is a 30 year information technology professional.

1203 Mr. {Slavitt.} Yeah. I do.

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1204 Mr. {Johnson.} So I have been through the lessons
1205 learned and the trial by error of trying to project costs of
1206 complex IT systems like this. The GAO says that we spent
1207 nearly a billion dollars on this, with the cost climbing. Do
1208 you believe that taxpayers have received a good return on
1209 their investment thus far?

1210 Mr. {Slavitt.} Congressman, I think two things
1211 happened. And it is hard to know how much fits into each
1212 category. The one thing that happened is clearly, this was a
1213 more complex project and needed a lot more work than people
1214 expected. And for that part, I think--

1215 Mr. {Johnson.} And that goes without--yeah. And see,
1216 that goes back to the genesis of some of the questions that
1217 we got into the last time you and I were here. If you have a
1218 firm set of requirements, and if you have a systematic
1219 lifecycle design process, it is much easier to project those
1220 costs.

1221 Mr. {Slavitt.} Right. Yeah.

1222 Mr. {Johnson.} I know when I was doing large scale
1223 program management on large IT systems, the industry general
1224 rule was that in the lifecycle of a complex system, that the

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1225 implementation part--the design, the building, the
1226 implementation part is only about 25 percent of the cost--the
1227 lifecycle cost of a system. The rest of the cost is in
1228 maintenance, operations and further on down the road. So if
1229 this thing has already cost the taxpayers a billion dollars
1230 or more to get to where we are today, we can reasonably
1231 expect that this is going to cost billions, billions more
1232 over the lifecycle of this thing, correct?

1233 Mr. {Slavitt.} Yeah, I couldn't put an estimate on
1234 that.

1235 Mr. {Johnson.} But you do agree with the concept in
1236 general that maintenance and operation costs a heck of a lot
1237 more overtime than the initial implementation does, right?

1238 Mr. {Slavitt.} I do think there will be an ongoing
1239 operating cost. I don't know that it will be greater. I
1240 think that I have to look, and I--I would have to look at the
1241 budget request, which I don't have with me.

1242 Mr. {Johnson.} Okay. Well, the budget request has
1243 nothing to do with how much it is going to cost.

1244 Mr. {Slavitt.} To do--

1245 Mr. {Johnson.} You understand how the industry works.

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1246 Mr. {Slavitt.} Yeah.

1247 Mr. {Johnson.} You understand the lifecycle of software
1248 development. You understand that. But I appreciate it that
1249 you don't really want to answer that question.

1250 Mr. {Slavitt.} I don't know the answer.

1251 Mr. {Johnson.} The GAO says ultimately more money was
1252 spent to get less capability. Do you agree with that?

1253 Mr. {Slavitt.} I think there were clear inefficiencies--
1254 -

1255 Mr. {Johnson.} Because a lot of it is still not
1256 working.

1257 Mr. {Slavitt.} I think there were clear inefficiencies
1258 in how this was managed. I think didn't it also say,
1259 Congressman, is in the real world, it is not always possible
1260 to know your scope going in. It is--in an ideal world, you
1261 can. But I think the estimates proved that they need to do
1262 more work in the--

1263 Mr. {Johnson.} Thank you, Mr. Chairman. And I agree
1264 that it is not always possible to know the scope, but it is
1265 possible to fence the scope and, therefore, knowing that what
1266 you are going to pay for is what you are going to get, which

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1267 is clearly not what happened here.

1268 Mr. {Murphy.} Thank you. The gentleman's--

1269 Mr. {Johnson.} Thank you, Mr. Chairman.

1270 Mr. {Murphy.} The gentleman's time has expired. I
1271 again remind members, please keep it in the timeframe,
1272 because we are expecting votes in a few minutes. And I want
1273 to be fair to everybody. Mr. Yarmuth, you are recognized for
1274 5 minutes.

1275 Mr. {Yarmuth.} Thank you very much, Mr. Chairman. Mr.
1276 Slavitt, thank you for your testimony and your work.

1277 One of--I want to talk about some of the things that
1278 have happened in Kentucky since we are actually doing an
1279 update, and I am very proud of the experience we have had so
1280 far in my state. But there was actually some pretty
1281 astounding news earlier this week that--regarding the
1282 trustees of Medicare coming from them about the prospects for
1283 viability of the Medicare trust fund. Are you familiar with
1284 that information?

1285 Mr. {Slavitt.} Yes, I am, Congressman.

1286 Mr. {Yarmuth.} Would you--could you tell us what has
1287 happened? Because as I recall when we passed the Affordable

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1288 Care Act in 2010 at that time, the trustees were projecting
1289 the trust fund would be insolvent by 2017.

1290 Mr. {Slavitt.} I believe if I am not mistaken that in
1291 summary that the projection is the trust fund was--life
1292 expectancy extended to 2030.

1293 Mr. {Yarmuth.} 2030. So that is pretty astounding that
1294 in four years the projection extended the life--the viability
1295 of Medicare by 13 years. And there was also some really
1296 fascinating and I think impressive data about pro-beneficiary
1297 expenditures that they essentially were flat year to year,
1298 there is no increase when historically they have been running
1299 at somewhere between 5 and 10 percent annually, is that
1300 correct?

1301 Mr. {Slavitt.} That is correct.

1302 Mr. {Yarmuth.} All right. Thank you. So one of the
1303 things that I know we have spent a lot of time talking about,
1304 people who have signed up for insurance in the private
1305 insurance in--under the Affordable Care Act. But these are--
1306 this is a data that has come about from the Commissioner of
1307 Medicaid in Kentucky. And I think this is so impressive. If
1308 you look at the top map, that is the 120 counties of

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1309 Kentucky, color coded by the amount of--the percentage of
1310 uninsured citizens in those counties prior to the ACA.

1311 [Chart]

1312 Mr. {Yarmuth.} And red and orange, the--which are most
1313 of the counties in Kentucky, I think all but probably a
1314 dozen, were rates of 17 to 20 percent, and then more than 20
1315 percent. This is--the bottom map is the current situation.
1316 And it is staggering to me that because the green is under
1317 13--is under 11 percent--8 to 11 percent. And blues, 5 to 8
1318 percent. And the dark blue, less than 5 percent. We have
1319 counties in Appalachian, southeastern Kentucky, that went
1320 from having the highest uninsured rate in the state, over 20
1321 percent, to the lowest uninsured rate, under 5 percent. And
1322 that to me is a staggering accomplishment. In Kentucky, we
1323 essentially have insured about half of the previously
1324 uninsured population of the Commonwealth, in a state that has
1325 very poor health historically and currently, and people who
1326 are in desperately in need of healthcare. And what is even
1327 more important I think than that is that the report of the
1328 commissioner--again, of Medicaid in Kentucky, talked about
1329 how preventive service utilization has increased dramatically

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1330 to almost 16 percent. An annual dental visit, which they
1331 weren't doing before. Adult preventive services increased by
1332 almost 37 percent, breast cancer screening by 20 percent,
1333 colorectal cancer screening by--up by 16 percent. Very, very
1334 important health measures that I think will pay off for the
1335 Commonwealth economically but also for the life of these
1336 citizens going forward.

1337 And also what is I think very important to note is how
1338 much reimbursements went up for providers in the
1339 Commonwealth, totals of--let us see. Reimbursements from
1340 now--those now covered under Medicaid expansion went up by
1341 \$284 million in just the first 6 months. So many of those
1342 hospitals and doctors and other providers who were providing
1343 uncompensated care for Kentucky residents are now being
1344 compensated. And that also is a great benefit to the
1345 taxpayers and the treasury of the Commonwealth.

1346 So I just mention those things because it is very clear
1347 to me that states that embrace the Affordable Care Act and
1348 committed to making it work are having very, very positive
1349 experiences. The adverse experiences are coming in states
1350 where the administrations of those states, the governments

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1351 decided in some cases just not to participate in, and other
1352 cases to try and sabotage the law.

1353 So I thank you for your work and for the information you
1354 brought to us today. I yield back.

1355 Mr. {Slavitt.} Thank you.

1356 Mr. {Murphy.} The gentleman yields back. Dr. Gingrey,
1357 you are recognized for 5 minutes.

1358 Dr. {Gingrey.} Mr. Slavitt, one of the members earlier
1359 asked or made the comment that because of the medical loss
1360 ratio, I think maybe they were talking about the State of
1361 Florida, how much money was returned to the consumer of
1362 health insurance through the plans. Let me start out by
1363 specifically asking you this, because this is also been
1364 reported. If an individual ended up receiving an incorrect
1365 subsidy that they were not entitled to, what will be done to
1366 rectify this issue? Specifically, will they be sent
1367 additional funding if the subsidy was too low? Or will they
1368 need to pay back the money if the subsidy was too high? And
1369 when will consumers know if they owe the government more
1370 money?

1371 Mr. {Slavitt.} Yeah. Thank you for the question,

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1372 Congressman. So if individuals have changes in their income,
1373 the best advice is they should come back to the website and
1374 update that information so that their tax credit and premium
1375 can be updated. For those adjustments that are not made,
1376 when it comes to tax time, they will either receive a refund
1377 or they will have additional that they will owe.

1378 Dr. {Gingrey.} Well, I think we need to get some
1379 specific answers on questions like that, because this pay and
1380 chase model, as we know in past, absolutely in regard to let
1381 us say paying Medicare claims that were fraudulent, and then
1382 you have to go chase them down to try and get them back, you
1383 never do. If--you are aware this GAO report that came out--
1384 well, I guess today. And it states that in January, CMS
1385 awarded a new company a contract to continue work on the
1386 federal marketplace for \$91 million, right?

1387 Mr. {Slavitt.} Correct.

1388 Dr. {Gingrey.} GAO says in the report that the cost now
1389 has ballooned to more than \$175 million, is that correct?

1390 Mr. {Slavitt.} That is what the report says, yes.

1391 Dr. {Gingrey.} Yeah. Right. And the investigation of
1392 course ended a few months ago. Do you know if the cost--this

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1393 estimated cost of 91 million that is now 175 million that is
1394 in the report, has it gone up even further since the report?

1395 Mr. {Slavitt.} No. I think the estimate of the total
1396 contract--and again, this is not what has been paid. This is
1397 what is being budgeted is about 170 million. That is
1398 correct.

1399 Dr. {Gingrey.} You know, that is a pretty big error, 91
1400 million versus 175--how is it you can offer a contract for
1401 \$91 million and have it grow that much over such a short
1402 period of time?

1403 Mr. {Slavitt.} So I think the proper characterization
1404 of that contract is that the scope of the contract was
1405 completed after the initial contract was awarded. So I
1406 don't--I wouldn't characterize the cost as ballooning. I
1407 would actually characterize it as the proper scope with the
1408 contractor, Accenture, was determined after they got going.
1409 And the reason for that, if you don't mind me saying, is
1410 because Accenture needed to be brought in in an urgent
1411 situation to take over for a contractor that was leaving.
1412 And so they agreed to an initial amount. And I--and this was
1413 before my time. And then agreed that they would come back

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1414 after they got started, started the transition from CGI. And
1415 then they would come to terms with how much the scope ought
1416 to be.

1417 Dr. {Gingrey.} Mr. Slavitt, in my remaining time, let
1418 me ask you this. You have been with CMS now for what, 3
1419 weeks?

1420 Mr. {Slavitt.} Three weeks.

1421 Dr. {Gingrey.} And you are the number two guy there,
1422 right?

1423 Mr. {Slavitt.} Correct.

1424 Dr. {Gingrey.} You know, when--back in 2009/2010
1425 timeframe when we marked up this Bill, a lot of us on this
1426 side of the aisle felt like that if the American people were
1427 going to have this Affordable Care Act--un-Affordable Care
1428 Act forced down their throat, that members of Congress and
1429 members of the Administration, the President, cabinet
1430 members, political appointees like yourself--you are not a
1431 career bureaucrat--

1432 Mr. {Slavitt.} That is correct.

1433 Dr. {Gingrey.} You have been appointed by the President
1434 to come into this important position. We felt, and still

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1435 feel--many of us still feel that you ought to eat your own
1436 dog food. And members of Congress, I think it is
1437 appropriate, we are doing that. We had to come off the
1438 federal employee health benefit plan and get on the VC health
1439 link. And yet you members of the Administration, the
1440 President and his family really ought to be doing the same
1441 thing. If--I know you worked in IT. But let us just say if
1442 you worked for Ford Motor Company, would you drive a
1443 Chevrolet? I kind of doubt it.

1444 Mr. {Slavitt.} I would hope not.

1445 Dr. {Gingrey.} I think you probably would drive a Ford.

1446 Mr. {Slavitt.} I would--

1447 Dr. {Gingrey.} But what do you think about that in
1448 these remaining few seconds? Respond to me. Do you--like it
1449 would be appropriate as a show of good faith to the American
1450 people that you guys and gals that are running this show that
1451 forced it upon us would be in the same plan that the American
1452 people have to be in?

1453 Mr. {Slavitt.} My understanding is that the President
1454 and his family are on the exchange. I don't know this for a
1455 fact. But that is my understanding. And if it is determined

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1456 that the rest of us should be on the exchange, I would
1457 happily do that.

1458 Dr. {Gingrey.} Well, if you--if that is true, please
1459 let me know. And I know we are limited in time. And I yield
1460 back, Mr. Chairman.

1461 Mr. {Slavitt.} Okay.

1462 Mr. {Murphy.} I thank the gentleman to yield back. I
1463 now recognize Mr. Green for 5 minutes.

1464 Mr. {Green.} Thank you, Mr. Chairman. And to my good
1465 friend and colleague from Georgia who I am going to miss, I
1466 not only drive Chevy's, but I am also on the plan. We had to
1467 buy ours through our exchange. And so--but I want to thank
1468 the Chairman and Ranking Member and our witness for
1469 testifying.

1470 For decades, the United States has had the highest rate
1471 of uninsured in the industrialized world. This drives up
1472 costs and puts families at risk of bankruptcy when they get
1473 sick. The main reason is why we have a health sick system
1474 rather than a healthcare system, because millions of
1475 Americans can't get the care they need outside the emergency
1476 room. In our own district in Texas, a very urban Texas, the

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1477 Affordable Care Act's enabled almost 20,000 people previously
1478 uninsured to get quality, affordable coverage. Overall, the
1479 insurance rate in our district has fallen by eight percent.
1480 52,000 people in the district would have had access to
1481 coverage if Texas had expanded Medicaid, and hopefully we
1482 will still get to that.

1483 Earlier this month, the New England Journal of Medicine,
1484 not Fox News, not a left or right wing Internet site, but the
1485 New England Journal of Medicine released two reports on
1486 coverage under the ACA. And I would like to read a quote
1487 from them. With continuing enrollment, the numbers of
1488 Americans getting insurance for the first time, or insurance
1489 that is better in quality or more affordable than their
1490 previous policy, will total in the tens of millions.

1491 And, Mr. Chairman, I would like to ask unanimous consent
1492 to place that article in the record?

1493 Mr. {Murphy.} Without objection.

1494 [The information follows:]

1495 ***** COMMITTEE INSERT *****

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|

1496 Mr. {Green.} Thank you.

1497 Mr. Slavitt, are you familiar with these reports?

1498 Mr. {Slavitt.} Yes, at the high level.

1499 Mr. {Green.} Earlier this week, the Gallup Poll
1500 released their own latest total numbers of Americans having
1501 insurance. Are you familiar with that survey?

1502 Mr. {Slavitt.} Yes, I am, Congressman.

1503 Mr. {Green.} The--similar, the Urban Institute and
1504 Commonwealth Fund conducted surveys. Can you discuss that
1505 also?

1506 Mr. {Slavitt.} I am familiar with those two, yes.

1507 Mr. {Green.} Okay. Would you agree that the findings
1508 of both Gallup and the New England Journal of Medicine are
1509 consistent with the millions of Americans signing up for
1510 healthcare?

1511 Mr. {Slavitt.} They are consistent, very encouraging.

1512 Mr. {Green.} Okay. At this point, the only thing
1513 keeping millions more Americans from signing up for the
1514 coverage is the refusal of Republican governors and state
1515 legislatures to expand Medicaid. If they did, another five

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1516 million Americans would be eligible for insurance.

1517 Mr. Chairman, I think the Affordable Care Act obviously
1518 coming out of the shoot, it was a problem. But it has been
1519 fixed. And hopefully we will see in the renewals it happen.
1520 But it is working, although a lot of us had tough times in
1521 October into mid-November who supported it.

1522 Mr. Slavitt, what is CMS doing to address the execution
1523 of the technology lessons learned from the first enrollment
1524 section?

1525 Mr. {Slavitt.} Well, Congressman, I got to this project
1526 when it was beginning the turnaround stage at the end of
1527 October. And I think what we are doing now is essentially
1528 carrying over from what--just as we did in the turnaround.
1529 It is--there is no magic to it. It is basic blocking and
1530 tackling. It is good communication. It is quite frankly a
1531 lot of the recommendations that have come out of the GAO
1532 report and making sure that we have precise requirements. It
1533 is daily management. It is senior level accountability that
1534 goes all the way up to the secretary.

1535 Mr. {Green.} You know, I advocated in Texas, having
1536 served a lot of years in the state legislature, is that we

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1537 should have had a Texas plan that we could have done. Some
1538 states had good examples of their plan, some not. Could you
1539 talk about that? Like, I know the State of Maryland and some
1540 other states had problems. And I don't know if they are
1541 fixed or not. But were they similar to what we had on a
1542 national scale for our states that didn't have a state plan?

1543 Mr. {Slavitt.} In terms of the challenges, or just in
1544 terms of what they got done in their state?

1545 Mr. {Green.} Yeah. Were they on a smaller scale,
1546 having the same challenges that we were?

1547 Mr. {Slavitt.} I think it is probably safe to conclude
1548 at this point, towards the end of 2014, that it was the rare
1549 state, and maybe Kentucky's one of them, that didn't
1550 underestimate how difficult this would be, given all of the
1551 complexities of tying into Medicaid, tying into insurance
1552 companies, offering a consumer website. In the first year of
1553 any new program, in my experience, whether it is public
1554 sector or private sector, it is sometimes bumpy. The same is
1555 going to be true in the second year. But those problems
1556 become more and more minor, and we get better all the time.

1557 Mr. {Green.} To the best of your knowledge, for example

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1558 if a state wanted to create their own plan now, there is
1559 nothing in the law that would prohibit them from approaching
1560 CMS or HHS, either that or expanding in Medicaid coverage?

1561 Mr. {Slavitt.} That is correct.

1562 Mr. {Green.} Okay. Thank you, Mr. Chairman. I will
1563 yield back my time.

1564 Mr. {Murphy.} The gentleman yields back. I now
1565 recognize Dr. Burgess for 5 minutes.

1566 Dr. {Burgess.} Again, thank you, Mr. Slavitt, for being
1567 here. You heard my comments during the opening statement
1568 about the memorandum that Mr. Cohen suggested that I might
1569 have. And I again just want to underscore that that is
1570 important to me. And even though Mr. Cohen is no longer at
1571 CMS, I would very much like to see that.

1572 Mr. {Slavitt.} It is my understanding that we have just
1573 sent it--we recently sent it. So if you don't receive it, I
1574 will follow-up with your office and make sure that you have
1575 it.

1576 Dr. {Burgess.} All right. Very well. You know, and it
1577 is kind of--I was just thinking it has been almost a year
1578 ago, really right now, that your boss, Marilyn Tavenner, was

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1579 here. And we talked about some things about the upcoming
1580 launch of Healthcare.gov. But of course, that was just a
1581 little less than a month after the unilateral decision by the
1582 President to delay the employer mandate. Now, I remember
1583 asking Ms. Tavenner about how--was she involved in that
1584 decision. And she asserted that she was not. I asked her
1585 how she found out about it. And she said her chief of staff
1586 told her, which I found rather astonishing. If my chief of
1587 staff came and gave me information like that, I mean I would
1588 be curious as to where that came from. And she seemed to
1589 lack curiosity about how that decision was reached. But let
1590 me ask you this, we are a year later. The employer mandate
1591 is now supposed to kick in about a week and a half after
1592 Election Day in November. Is it your understanding that the
1593 employer mandate will in fact be enacted in November, or can
1594 we expect a further delay of that?

1595 Mr. {Slavitt.} So I am still working my way around the
1596 federal government, trying to understand how it all works.

1597 Dr. {Burgess.} Good luck.

1598 Mr. {Slavitt.} Thank you. My understanding--and you
1599 could please correct me if I am wrong is that that is an IRS

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1600 and Treasury area of responsibility. So I haven't been
1601 exposed to that so much yet.

1602 Dr. {Burgess.} I--my personal belief is that we will
1603 never see the employer mandate. I have no inside
1604 information, obviously. I am not speaking for the Committee.
1605 I am just speaking for myself. When you look at the
1606 disruption that was caused in the individual market, October,
1607 November, December of last year, and remind yourself that
1608 that was only 15 percent of the insurance market that had
1609 that convulsion, had that happened to the entire--both the
1610 large group market, the small group market, the individual
1611 market all at once, it would have been pretty disruptive.

1612 Now, you heard Mr. Gingrey talk about members of
1613 Congress and members of the Administration should take the
1614 same thing people have to take. I agree with that. In fact,
1615 I did not take the BC Exchange that was offered to members of
1616 Congress and their staff. I said look, I'll do what other
1617 people in my district have to do. I went to Healthcare.gov,
1618 bought a bronze plan off the website. The biggest mess I
1619 have ever been involved in in my life. But I finally got
1620 through. It took about three and a half months to do so.

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1621 Now, I am wondering what my rate is going to be next year. I
1622 have got the most expensive insurance--health insurance
1623 policy I have ever had, an enormous deductible. But what can
1624 I look forward to in the next insurance year? You talked
1625 about you wanted a successful open enrollment. Is it going
1626 to be successful? What are the rates going to look like?

1627 Mr. {Slavitt.} Yeah. So I think we are at a stage now
1628 where--and indeed, this is one of our high measures for
1629 success is making sure that there is enough choices and
1630 enough affordability. And, of course, each state is going
1631 through their own process and going through rate reviews. We
1632 have seen some states publicly now come out with their rates.
1633 I believe Rhode Island, Washington. California today is
1634 going to have I think an announcement with what their rates
1635 are. I couldn't tell you, Congressman, about Texas, because
1636 I don't know. But generally speaking, what we have seen are
1637 rates that are in not the double digit increased levels but
1638 in the mid-single digit levels. That is not going to
1639 necessarily be the case in every county in America, but that
1640 seems to be what is happening on average.

1641 Dr. {Burgess.} But still, I mean, you mentioned that in

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1642 three or four states. We have got a long way to go before
1643 renewal rates across the country are in evidence.

1644 Mr. {Slavitt.} No question. No question.

1645 Dr. {Burgess.} I mean, you are the Principle Deputy
1646 Administrator. Do you have any responsibility or involvement
1647 in the renewal or the rate filings?

1648 Mr. {Slavitt.} I think these are--these rate filings
1649 get reviewed and approved, you know, at the state level.
1650 There is a process. And I think it is in the mid-process. I
1651 believe right now that the--

1652 Dr. {Burgess.} Let me just interrupt you, because my
1653 time is running up. Do you receive interim reports or
1654 updates on what those state filings are?

1655 Mr. {Slavitt.} I think there has been an initial
1656 submission, and I have seen a high-level report. But this is
1657 not yet final information.

1658 Dr. {Burgess.} And are--is your office going to make
1659 those rate filings public information? Will we have the
1660 availability to access that?

1661 Mr. {Slavitt.} When they become final, absolutely.
1662 Absolutely.

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1663 Dr. {Burgess.} Again, as a Healthcare.gov member from
1664 the State of Texas of the federal fallback, I would very much
1665 like to know what my renewal rates are for next year.

1666 Mr. {Slavitt.} Of course.

1667 Dr. {Burgess.} Thank you, Mr. Chairman. I will yield
1668 back.

1669 Mr. {Murphy.} The gentleman's time has expired. I
1670 recognize Ms. Schakowsky for 5 minutes.

1671 Ms. {Schakowsky.} Thank you, Mr. Chairman.

1672 I just wanted to tell you, Mr. Slavitt, I don't know if
1673 your office and your position is actually in charge, but we
1674 have gotten tremendous cooperation from CMS when we have had
1675 constituent issues. And, you know, clearly, it comes out.
1676 Consumers get confused, have a lot of questions, have some
1677 problems. I got irritated sometimes. On the other side, I
1678 feel like there is an embracing of these problems rather than
1679 a constituent service attitude to fix the problems. And when
1680 we have tried, we have had good success. And so I just
1681 wanted to tell you I appreciate that.

1682 I also just wanted to say that the minority staff has
1683 done a district by district, the benefits of the healthcare

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1684 reform law in all the districts in the country. And it is
1685 just wonderful to see how the number of people that in my
1686 district, 283,000 people in my district, including 51,000
1687 children and 120,000 women now have health insurance that
1688 covers preventive services without any copays, coinsurance or
1689 deductibles. Needless to say, that is huge.

1690 Mr. {Slavitt.} Very good news.

1691 Ms. {Schakowsky.} And up to 36,000 children in my
1692 district with preexisting conditions can no longer be denied
1693 coverage by health insurers. It is just lots and lots of
1694 good news, including the new Medicaid enrollees that are now
1695 being covered.

1696 But I did have a question. So we are talking somewhat
1697 about the states that have expanded Medicaid and have not.
1698 Twenty-six states, the District of Columbia, have expanded
1699 Medicaid coverage under the Affordable Care Act. And in
1700 those states, Medicaid is seeing great success. Enrollment
1701 has increased substantially, and the percentage of the
1702 population without insurance has declined dramatically. And
1703 I am asking you, Mr. Slavitt, if you have seen studies that
1704 compare the decline in the number of uninsured in states that

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1705 did and did not expand Medicaid?

1706 Mr. {Slavitt.} Yes, I have seen those studies.

1707 Ms. {Schakowsky.} And can you tell me what you found?

1708 Mr. {Slavitt.} The states that have expand Medicaid--
1709 and I will have to get back to you on the exact figure--have
1710 seen significantly lower rates of uninsured than those states
1711 that did not expand Medicaid.

1712 Ms. {Schakowsky.} But we have seen a decline in any
1713 case in most--isn't it in all states?

1714 Mr. {Slavitt.} Declined in any case, and a bigger
1715 decline in states that have expanded Medicaid.

1716 Ms. {Schakowsky.} And have you seen the estimates about
1717 the number of Americans that would receive healthcare
1718 coverage if all 50 states expanded Medicaid? Do you know the
1719 size of this estimate?

1720 Mr. {Slavitt.} I believe that it is an additional five
1721 million, if I am not correct--if I am not mistaken.

1722 Ms. {Schakowsky.} All right. Thank you. And if that
1723 is the case, and I believe you that it is, this is really an
1724 appalling number, five million Americans who would receive
1725 healthcare coverage if Republican governors and state

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1726 legislatures took the simple step of expanding Medicaid. It
1727 is obviously good for people when more people have health
1728 insurance.

1729 But, Mr. Slavitt, what about healthcare providers? How
1730 does the Medicaid expansion help them?

1731 Mr. {Slavitt.} So my information is anecdotal. But it
1732 appears that if the dramatic reduction, or a significant
1733 reduction in uncompensated care, it appears that this has
1734 been a very good thing for providers.

1735 Ms. {Schakowsky.} And this Committee has spent the last
1736 three years looking for some Affordable Care Act related
1737 scandal. And despite all their concern, they have
1738 systematically ignored an ongoing healthcare tragedy, the
1739 dereliction of duty by Republican governors around the
1740 country who refuse to expand Medicaid. For those who have
1741 not been following this closely, the Affordable Care Act
1742 provides 100 percent federal funding for the first three
1743 years for the states to expand Medicaid coverage to millions
1744 of low-income Americans, right?

1745 Mr. {Slavitt.} That is correct.

1746 Ms. {Schakowsky.} And yet for some reason, Republican

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1747 governors in dozens of states have refused to expand coverage
1748 to low-income insured individuals in their states, correct?

1749 Mr. {Slavitt.} That is correct.

1750 Ms. {Schakowsky.} Well, this to me is a real scandal.
1751 The expansion doesn't cost states a dime. It provides
1752 qualified--quality affordable coverage for millions of
1753 Americans working hard just to get by. Yet some Republican
1754 governors and state legislatures are deliberately refusing to
1755 provide coverage to millions of uninsured Americans.

1756 And, Mr. Chairman, that it seems to me is an issue this
1757 Subcommittee really should look into. And I yield back.

1758 Mr. {Murphy.} The gentlelady yields back. I now
1759 recognize Ms. Blackburn for 5 minutes.

1760 Mrs. {Blackburn.} Thank you, Mr. Chairman. And thank
1761 you for being with us today. Overseeing this implementation,
1762 getting to the bottom of a lot of the questions, I think is
1763 very important, and continuing to do our due diligence. And
1764 I know that several people have mentioned the New England
1765 Journal of Medicine article from last week, the health reform
1766 and changes in health insurance coverage. And my friends
1767 across the aisle have wanted to tout that as being something

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1768 to prove their point.

1769 I think that it is important though to go in here and
1770 look at how the authors came to the conclusion that 5.2
1771 percent more had insurance, that there was a decline in those
1772 without insurance from September 2013 to June of 2014. And
1773 then the authors mention the limitations of their study.
1774 They said that the study did not distinguish between persons
1775 enrolling for the first time and those who were changing
1776 their enrollment. And I really wonder how many of those that
1777 had to buy more expensive policies, new policies that were
1778 Obamacare compliant? How did that affect that number?

1779 And the authors measured improvement and access to care
1780 by asking two questions. First, did the survey participants
1781 identify a personal doctor? And, second, did the survey
1782 participants report difficulty paying medical bills? Well,
1783 it seems to me a more important outcome measure would be
1784 whether a person was actually able to see the doctor.
1785 Because in our district, we hear from people they can't get
1786 access to the doctor. They have got access to the queue,
1787 because they have got a card. They can't get access to the
1788 doctor.

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1789 So while my colleagues across the aisle talk about how
1790 many people have insurance, I would like to remind everyone
1791 that having an insurance card is not the same as having
1792 medical care. And I continue to hear from people in
1793 Tennessee who lost their health plan. They liked it. They
1794 can't keep it. I hear from people that have not been able to
1795 keep their doctor because of the narrow networks in
1796 Obamacare. I hear from people who go to the doctor and need
1797 a test, but can't get the test because their copays and their
1798 coinsurance are too high. They can't afford it. This stuff
1799 is too expensive to afford.

1800 And, finally, we are hearing from some of our Tennessee
1801 insurance carriers, they are going to have a 19 percent
1802 increase in the health insurance premiums in 2015. So it is
1803 kind of like adding insult to injury. You have got this
1804 stuff. You can't use it because it is too expensive to
1805 afford. The copays are too high. You have an insurance
1806 card, but you can't get into see the doctor and you are
1807 having to wait. I don't understand why my colleagues across
1808 the aisle continue to defend this thing.

1809 But, today, we are shifting our focus to oversight and

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1810 the way that taxpayer dollars--I remind everyone, taxpayer
1811 dollars are paying for this. And the people don't like it.
1812 On January 1, 2014, HHS certified to Congress that the
1813 American health benefit exchanges, the marketplace, were
1814 verifying their applicants for advanced payments of the tax
1815 credits. Cost share and reductions were indeed eligible.
1816 However, the GAO secret shopper investigation found that 11
1817 out of 12 secret shoppers were able to obtain health
1818 insurance and qualify for premium tax credits using
1819 fictitious identities and fraudulent documents. Now, let me,
1820 for the benefit of my colleagues, talk a little bit about
1821 what a secret shopper program does.

1822 When I had my marketing business, we would run secret
1823 shopper programs for malls and shopping centers and chambers
1824 of commerce. You would identify where your problems are.
1825 And then you get in there and you clean them up. The problem
1826 is the system allows fraud. If you have got 11 out of 12
1827 that something is wrong, Mr. Slavitt, that is a failing
1828 grade. There had been over 30 delays in implementation. The
1829 President has made multiple unilateral changes. And, you
1830 know, we are here to learn about the contracting practices

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1831 that took place at CMS with the botched implementation of
1832 this law. We are looking at the GAO study. That is--this
1833 thing is not much better.

1834 Let us talk about this contract. So January, CMS
1835 awarded a contract to a new company to continue work on the
1836 federal marketplace. It was a \$91 million contract, correct?

1837 Mr. {Slavitt.} Correct.

1838 Mrs. {Blackburn.} Okay. Now, GAO says that cost has
1839 ballooned to more than \$175 million, is that correct?

1840 Mr. {Murphy.} You can answer that question.

1841 Mr. {Slavitt.} That is what the report says. I don't
1842 agree with that characterization, but that--it is what the
1843 report says.

1844 Mrs. {Blackburn.} Okay. Thank you. I will submit the
1845 rest of my questions. I yield back.

1846 Mr. {Murphy.} Thank you. Now, we have just been called
1847 to vote. We will go through Ms. Ellmers' questions, and then
1848 we will take a break and come back for the second part.

1849 Ms. Ellmers, you are recognized for 5 minutes.

1850 Mrs. {Ellmers.} Thank you, Mr. Chairman. And thank you
1851 for being with us, Mr. Slavitt.

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1852 I would like to go back to a little bit of the
1853 discussion you had with my colleague from Ohio, Mr. Johnson.
1854 I know you had made some comments there at the end where you
1855 pointed out that in the real world, and, you know, that
1856 things are much more realistic. And that ideologically, many
1857 times things seem like they are going to be better than they
1858 are. I would say to you, sir, that that is exactly why I
1859 ended up running for office, being a nurse, because I did
1860 see--and my husband, as a doctor, saw that the plan that was
1861 going forward was not going to be realistic. And I think we
1862 have learned over time that that is the case, and that there
1863 were many promises made that have not been kept--well
1864 intended, but not true for the American people. So I do
1865 again--I share with you that same sentiment, but realize too
1866 that that is why we feel so strongly about this issue that
1867 the American people do need to see what can be realistic and
1868 achieved in good healthcare in this country, and good
1869 healthcare coverage.

1870 You did also have an exchange with Mr. Johnson on the
1871 cost of Healthcare.gov, and what it should have cost. You
1872 reluctantly did not answer the question of, you know, the

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1873 cost being a billion dollars, is a billion dollars too much
1874 for the implementation thus far?

1875 Mr. {Slavitt.} So thank you, Congresswoman. I have not
1876 seen a study yet which looks at what the appropriate cost for
1877 building the entire Healthcare.gov system should be. But, of
1878 course, I do acknowledge that our colleagues at the GAO
1879 pointed out that there were absolutely inefficiencies and
1880 waste in the way the contract was managed. So at the very
1881 least, we know there was some. I would hesitate to say
1882 though that it was entirely waste, because there was a really
1883 significant set of systems built. And I think those systems
1884 have significant long-term value for the country.

1885 Mrs. {Blackburn.} You know, there again, it gets back
1886 to that same issue of what is realistic, what is achievable.
1887 And, you know, simply throwing money at it, and then looking
1888 back in hindsight to determine what did work and didn't, I
1889 think we all are learning from this experience. So that, of
1890 course, has value. I don't know how you measure it. But the
1891 American taxpayers are still on the hook for this. And that
1892 is again why we are taking the approach we are, which is, you
1893 know, when is it going to be enough? When are we going to

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1894 achieve the goals at a cost effective measure?

1895 I want to look into some of the issues with security
1896 breaches. Are you aware at this time of any problems that
1897 the websites--from the building of the website, and that
1898 there are still concerns? Are you aware of any right now?

1899 Mr. {Slavitt.} So there have been no successful
1900 malicious attacks. And, certainly to the best of my
1901 knowledge, no one's individual data has ever been compromised
1902 from the Healthcare.gov website.

1903 Mrs. {Blackburn.} So to the best of your knowledge, and
1904 just based on the answer that you gave, you are not seeing
1905 that there were any related information breaches in
1906 Healthcare.gov or traveling through the federal exchanges
1907 that you would consider a security breach?

1908 Mr. {Slavitt.} We have not seen any malicious attacks
1909 that have been successful. And we have not seen anybody's
1910 personal information in any way get compromised.

1911 Mrs. {Blackburn.} What is the definition of a
1912 successful breach?

1913 Mr. {Slavitt.} Well, I am not trying to be cagy, just--
1914 but other than to say that we--that nobody has successfully

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1915 penetrated the security system to the best of my knowledge,
1916 Congresswoman.

1917 Mrs. {Blackburn.} Are you aware of any companies
1918 building, operating or otherwise working on federal
1919 exchanges, obtaining access to information that they should
1920 not have? Anyone who is outside of the system or working on-
1921 -that have?

1922 Mr. {Slavitt.} Not to my knowledge.

1923 Mrs. {Blackburn.} And information on enrollees or
1924 applicants, none there as well?

1925 Mr. {Slavitt.} No, not to my knowledge.

1926 Mrs. {Blackburn.} Are you aware of any changes to site
1927 protocols or standards to address breaches to accessed
1928 information?

1929 Mr. {Slavitt.} I think it is fair to say that the
1930 security team does continuous monitoring, and makes changes
1931 and puts in new patches as, you know, new--as different
1932 security things I have found out about in the industry and so
1933 forth. So there is a continuous monitoring--

1934 Mrs. {Blackburn.} Can we obtain that information over
1935 time, any of the changes and updates that may have taken

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1936 place for the Committee?

1937 Mr. {Slavitt.} Sure. Let me figure out what I can
1938 share. I obviously don't want all of the things that our
1939 security team does to be well understood by the wrong people.
1940 But I want to make sure to get you the information you need.

1941 Mrs. {Blackburn.} Okay. Thank you. Thank you, Mr.
1942 Chairman. I yield back.

1943 Mr. {Murphy.} Thank you. They have called votes.

1944 Mr. Slavitt, we thank you for your testimony. Members
1945 will have a few days to get other questions to you. And we
1946 would appreciate a quick and thorough and honest response.

1947 Mrs. {Blackburn.} Mr. Chairman, can I move to strike
1948 the last word, just very briefly?

1949 Mr. {Murphy.} Sure.

1950 Mrs. {Blackburn.} I just want to--Dr. Burgess had
1951 mentioned earlier that HHS didn't respond to the Committee's
1952 request for an analysis of its legal authority to make
1953 payments in connection with the risk corridors program. I
1954 was told--I have just been told that HSS did respond to the
1955 request and provided a response to the Committee on Jun 18,
1956 2014. And in the response, they also included a legal

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1957 analysis. So I wanted to clarify the record. And I wanted
1958 to also make sure that if Dr. Burgess, or you or the
1959 Committee staff did not receive that, we will put--we will
1960 get another copy to you.

1961 Mr. {Murphy.} Dr. Burgess?

1962 Dr. {Burgess.} Well, in fact, I did not receive it.
1963 But I would be anxious to look at it and see if it answers
1964 the question as it was asked. And, Mr. Chairman, if I could
1965 have the indulgence of one brief follow-up with Mr. Slavitt?

1966 Mr. {Murphy.} Yes, very brief.

1967 Dr. {Burgess.} Mr. Slavitt, we have heard a lot of
1968 discussion about the fact that when this thing went live, the
1969 backend part of the system was not built. Is it now built
1970 and available and ready to use, the part that pays providers?

1971 Mr. {Slavitt.} So the part that pays the issuers,
1972 issuers are getting paid today.

1973 Dr. {Burgess.} How about the doctors and hospitals?

1974 Mr. {Slavitt.} The doctors and hospitals get paid by
1975 the health plans, not by the exchange--not by the
1976 marketplace.

1977 Dr. {Burgess.} So--okay. So the backend part of the

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1978 system is up and fully functional?

1979 Mr. {Slavitt.} No, no, no. The backend part of the
1980 system is going through continuous releases. Today, we are
1981 paying the issuers on an estimated basis. There will be a
1982 coming release this year where--by the end of this year where
1983 they will beginning to get paid at a policy level basis. And
1984 then next year, continued automation will occur to tie
1985 everything into the backend of CMS' systems.

1986 Dr. {Burgess.} Okay. Mr. Chairman, it just begs the
1987 question. Have the right people been paid the right amount
1988 of money? These are taxpayer dollars that are--

1989 Mr. {Slavitt.} I will follow-up--

1990 Mr. {Murphy.} What we will do is we will follow-up with
1991 some questions to you.

1992 Mr. {Slavitt.} Yeah. I will be happy to follow-up.

1993 Mr. {Murphy.} Mr. Woods, we will probably reconvene--
1994 our votes will probably take us to 11:30. So this will be in
1995 a brief recess until 11:30. And we will be back. Thank you
1996 very much.

1997 [Recess]

1998 Mr. {Murphy.} This reconvenes the Subcommittee on

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1999 Oversight and Investigation. I would now like to introduce
2000 the witness on the second panel for today's hearing. Mr.
2001 William T. Woods is the Director with Acquisition and
2002 Sourcing Management Team at the Government Accountability
2003 Office. He provides overall direction for GAO's review of
2004 contracting activities at defense and civilian agencies.

2005 I will now swear in the witness. Are you aware that
2006 this Committee is holding an investigative hearing, and when
2007 doing so has the practice of taking testimony under oath? Do
2008 you have any objections to testifying under oath?

2009 Mr. {Woods.} None whatsoever.

2010 Mr. {Murphy.} The Chair then advised you that under the
2011 rules of the House and the rules of the Committee, you are
2012 entitled to be advised by counsel. Do you desire to be
2013 advised by counsel during your testimony today?

2014 Mr. {Woods.} No, I do not.

2015 [Witness sworn]

2016 Mr. {Murphy.} Thank you. You are now under oath and
2017 subject to the penalties set forth in Title XVIII, Section
2018 1001 of the United States Code. You may now give a 5-minute
2019 summary of your written statement.

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2020 ^TESTIMONY OF WILLIAM WOODS, DIRECTOR OF ACQUISITION AND
2021 SOURCING MANAGEMENT, GOVERNMENT ACCOUNTABILITY OFFICE

2022 } Mr. {Woods.} Thank you, Mr. Chairman, Ranking Member
2023 DeGette. It is a pleasure to be here this afternoon to talk
2024 to you about Healthcare.gov and the work that we have done
2025 looking into that system.

2026 When the website was launched in October of last year,
2027 there were, of course, a number of problems. We got a lot of
2028 requests from the Congress to review what happened and why.
2029 Those requests came from both the House and the Senate, from
2030 both sides of the aisle. We got requests from committee
2031 chairs, from ranking members, from individual senators,
2032 individual congressmen across the board. And what we decided
2033 to do was to combine all of those requests and conduct a body
2034 of work that addressed all of the issues that were raised in
2035 those various requests. We have a number of engagements
2036 underway to address all of those issues.

2037 The one that we will be talking about today is
2038 contracts. But let me just mention, we have one that has

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2039 nearing completion on privacy and security concerns with
2040 respect to the website. And we also have a report that is
2041 on-track for issuance later this year on information
2042 technology management. That report will look at the use of
2043 best practices in the development of this information
2044 technology system.

2045 But I am going to be talking today about our first
2046 report that was issued--publicly released yesterday. And
2047 that is on the contracting aspects of Healthcare.gov. And we
2048 will--I am going to be talking about our three objectives.
2049 The first thing we reviewed was the acquisition planning by
2050 CMS for the website. Secondly, we looked at the oversight of
2051 the cost schedule and performance of that system. And then,
2052 thirdly, we looked at a range of contractor performance issue
2053 with respect to Healthcare.gov.

2054 We focused on the largest task orders and contracts that
2055 were involved here. Our report mentions that CMS had spent
2056 about \$840 million for development of the system. And that
2057 was through March. Obviously, the spending has continued.
2058 And that number is likely higher today. But as of the time
2059 that we completed our work, it was \$840 million.

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2060 And we focused on the largest. We reviewed in depth two
2061 task orders and one contract. Just briefly, those task
2062 orders are one, two. First, to CGI federal for development
2063 of the federally facilitated marketplace. That is basically
2064 the website itself, as well as some back office systems that
2065 support the enrollment process, the financial management
2066 process, plan management, et cetera.

2067 We also looked at a task order awarded to QSSI. And
2068 that is for the data hub. The data hub is a system that
2069 interfaces with other agencies. There are roles that other
2070 federal agencies need to play to make this system work, the
2071 Internal Revenue Service, the Department of Homeland Security
2072 to verify immigration status, et cetera. So lots of agencies
2073 have a role here. And the hub data system is that system
2074 that allows for communication among all of those agencies.

2075 And then the third contract that we looked at is one
2076 with Accenture. That was awarded on a sole source basis by
2077 CMS in January of this year for continued development of that
2078 federally facilitated marketplace.

2079 Before I get to our specific findings, I just wanted to
2080 make an observation that there really are some common threads

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2081 that run through all of the work that we did here. And those
2082 threads are first of all complexity. This was an enormously
2083 complex undertaking. As I said, there were lots of federal
2084 agencies involved, a number of states involved, industry
2085 partners, healthcare plans. Lots of players. There were
2086 also lots of systems that had to interact with each other.
2087 And that added to the complexity. Another thread that runs
2088 through--and you will see that in the--when we get to the
2089 findings in a moment--is the pressure of deadlines. The
2090 Affordable Care Act itself set January 1, 2014 as the date
2091 when the enrollment took effect. The Department of Health
2092 and Human Services backed up from that January deadline and
2093 set an October 1, 2013 time for when the system needed to be
2094 ready to go, when they could throw the switch, the go-live
2095 date, that sort of thing. They needed to have things in
2096 place by October 1 of 2013. And that drove a lot of the
2097 decisions that were made by CMS. And then the third thread
2098 that runs through all of our findings is the changing
2099 requirements. Things were constantly evolving, which made it
2100 difficult not only for CMS personnel to keep things on track
2101 but also for the contractors to keep up with those changes.

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2102 Some of those were anticipated changes, things they knew
2103 going in they did not yet know. But others were, they were
2104 learning as they went along.

2105 Let me get into the specific findings in the three areas
2106 that I mentioned. In the area of--

2107 Mr. {Murphy.} Could you summarize, because you are
2108 already a couple minutes over? We want to ask you a number
2109 of questions, so if you could just summarize your final
2110 findings?

2111 Mr. {Woods.} Certainly. Yeah.

2112 Mr. {Murphy.} Thank you.

2113 Mr. {Woods.} In the area of planning, our bottom line
2114 assessment is simple yet sobering. And that is that CMS
2115 began and undertook the development of the Healthcare.gov
2116 system without adequate planning, despite facing a number of
2117 challenges that increased both the level of risk and the need
2118 for oversight.

2119 In the oversight area, we saw increasing costs across
2120 the instruments that we looked at. Both of the task orders
2121 experienced cost increases, and the new contract awarded to
2122 Accenture also saw cost increases. Those cost increases were

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2123 due to a number of factors. As I said, some requirements
2124 were unknown at the time they awarded these instruments.
2125 When those costs became known, when those requirements became
2126 known, those--the costs increased. The cost schedule and
2127 performance issues were exacerbated by inconsistent and
2128 sometimes absent oversight.

2129 And then in the third area about contracting
2130 performance, we saw primarily in the CGI federal task order
2131 an increasing sense of frustration on the part of CMS of the
2132 contractor's inability to be able to comply with contract
2133 requirements and meet deliverable schedules. That
2134 frustration grew to the point where they decided not to renew
2135 the contract with CGI and instead to move to a different
2136 solution, which is to award the contract to Accenture.

2137 So those are our three findings. We have a series of
2138 recommendations to address some of the issues. And I would
2139 be delighted to get into the specifics of that as the hearing
2140 goes forward.

2141 [The prepared statement of Mr. Woods follows:]

2142 ***** INSERT 2 *****

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2143 Mr. {Murphy.} Thank you, Mr. Woods. We appreciate your
2144 thoroughness and your candor.

2145 So as you described things like inconsistent or absent
2146 oversight, you said oversight weaknesses, a lack of adherence
2147 to planning requirements compounded by acquisition planning
2148 challenges. And when Mr. Slavitt testified earlier, he said
2149 fortunately or unfortunately, the GAO report wasn't news. So
2150 as you are going through this, with regard to the oversight,
2151 did people within CMS and--know that these problems were
2152 brewing?

2153 Mr. {Woods.} We saw some indication that the problems
2154 were known, particularly with the CGI issue that I mentioned
2155 earlier. That was well documented what their concerns were.
2156 Other aspects though, Mr. Chairman, were not quite as
2157 visible. And let me point out one area. We found a number
2158 of instances--and our count was about 40--where changes were
2159 being made to the contract requirements at the direction of
2160 people that did not have the authority to do that.

2161 Mr. {Murphy.} Within CMS--

2162 Mr. {Woods.} Within CMS. These were largely--

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2163 Mr. {Murphy.} When you say did not have the authority,
2164 you mean they had not discussed these with Mr. Cohen or Ms.
2165 Tavenner?

2166 Mr. {Woods.} Well, the only person within CMS that has
2167 authority to change the contract in a manner that increases
2168 the government's obligations is the contracting officer.

2169 Mr. {Murphy.} Who was?

2170 Mr. {Woods.} I am sorry?

2171 Mr. {Murphy.} And who was that?

2172 Mr. {Woods.} I don't have the name right at my finger--

2173 Mr. {Murphy.} But what I am wondering here is do you
2174 know if--so what--the problems with the website--it took
2175 longer to develop it. The security wasn't a question.
2176 People had problems signing up, and with inconsistent or
2177 absent oversight. So I am wondering in some case, you are
2178 saying there was actions taken without authorization.
2179 Several dozen of these, I believe, that you documented.

2180 Mr. {Woods.} That is correct.

2181 Mr. {Murphy.} So people were making change orders, and
2182 that was leaving some problems. But there was also absent
2183 oversight. So some people in charge were not meeting, were

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2184 not paying attention, were not monitoring this contract? Or
2185 they were monitoring some things and making the wrong
2186 decisions? Was it both, or one or the other?

2187 Mr. {Woods.} A combination of things. There are a
2188 number of people with different roles to play. As I
2189 mentioned, there is a contracting officer. But there was
2190 also, on the program side, a governance board review process.
2191 And that process was designed to provide high level
2192 management oversight. And what we found there was that that
2193 process simply did not work as intended.

2194 Mr. {Murphy.} Now, we also had heard that there was a
2195 McKinsey Report commissioned by then Secretary Sebelius which
2196 made it pretty clear they weren't going to meet their
2197 deadlines. Did they know within CMS that this--these
2198 deadlines couldn't be met, and that under the pressure which
2199 you had listed such as the January 1 deadline, or the
2200 complexity of this, did they know that this really wasn't
2201 ready for primetime?

2202 Mr. {Woods.} We found some indication in the files that
2203 we reviewed that in the spring timeframe, the spring of 2013,
2204 that estimates were made that the federally facilitated

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2205 marketplace would only be 65 percent complete by the October
2206 1 deadline.

2207 Mr. {Murphy.} So they knew then in the spring. Did
2208 they know that in August and September?

2209 Mr. {Woods.} There was--the state of knowledge
2210 continued to progress from the spring through the end of the
2211 summer. And they became increasingly concerned that the
2212 deadline would not be met. One of the principle oversight
2213 functions and processes that we saw, and that we were very
2214 concerned about, is there was supposed to be, according to
2215 the original schedule, an operational readiness review
2216 conducted in the spring of 2013. That operational readiness
2217 review was moved from the spring to the fall, to September of
2218 2013, just weeks before--

2219 Mr. {Murphy.} And when they did that review, did they
2220 know it wasn't going to work?

2221 Mr. {Woods.} Well, as I said, there was some indication
2222 in the files that they thought only 65 percent complete.

2223 Mr. {Murphy.} So when Ms. Tavenner--

2224 Mr. {Woods.} The purpose of that operational readiness
2225 review is to either confirm that the system will work or find

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2226 out what is wrong.

2227 Mr. {Murphy.} So when--

2228 Mr. {Woods.} So that there is enough time to fix it.

2229 Mr. {Murphy.} So when Ms. Tavenner came before this
2230 Committee, or more specifically when Mr. Cohen came before
2231 this Committee within days of the launch, and he said
2232 everything was going to be fine by October 1, what you are
2233 saying to this Committee is there was ample evidence to say
2234 that was not true?

2235 Mr. {Woods.} We saw some indication that there was
2236 progressively increasing knowledge that there were problems
2237 in meeting that launch date.

2238 Mr. {Murphy.} Okay. And did Mr. Cohen know that?

2239 Mr. {Woods.} I don't know that.

2240 Mr. {Murphy.} But either through lack of oversight, he
2241 should have known it, or he knew it and reported to this
2242 Committee under oath that everything was fine, and August 1,
2243 it was going to be ready for launch? What you are telling
2244 us, there was ample evidence in what is reviewed that people
2245 within HHS knew it was not ready, and people under oath told
2246 this Committee something entirely different?

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2247 Mr. {Woods.} Yeah. I don't know what specific
2248 individuals knew or did not know. But we saw evidence in the
2249 files that we reviewed that there was a knowledge within the
2250 Agency that the operation readiness was in jeopardy.

2251 Mr. {Murphy.} Thank you. I am over time. I will now
2252 turn to Ms. DeGette for 5 minutes.

2253 Ms. {DeGette.} Well, this is an important issue. So
2254 you are saying people within the Agency knew that the website
2255 was not ready, correct? Yes or no?

2256 Mr. {Woods.} We did--we saw evidence in the files--

2257 Ms. {DeGette.} You saw yes that people--do you think
2258 that people in the Agency knew that the website would
2259 collapse on October 1, yes or no?

2260 Mr. {Woods.} I can't speak to that particular
2261 characterization.

2262 Ms. {DeGette.} You don't have any--do you have
2263 indication from the files that people in the Agency knew that
2264 the website would not work on October 1?

2265 Mr. {Woods.} Yes, we saw that. Yes.

2266 Ms. {DeGette.} Can you produce that to this Committee,
2267 please?

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2268 Mr. {Woods.} There was a series--

2269 Ms. {DeGette.} No, can you produce it--

2270 Mr. {Woods.} Absolutely, ma'am. Yes.

2271 Ms. {DeGette.} Thank you.

2272 Mr. {Woods.} Yes, ma'am.

2273 Ms. {DeGette.} Now, my next question, because Ms.

2274 Tavenner and Mr. Cohen did come in here and testify under

2275 oath several days before, as the Chairman has said, that the

2276 website would work. Do you have evidence in your files that

2277 Mr. Cohen or Ms. Tavenner knew that this website would not

2278 work, yes or no?

2279 Mr. {Woods.} No, I cannot speak to the knowledge of any

2280 individual.

2281 Ms. {DeGette.} Thank you. Now, in your opening

2282 statement, you talked about some provisions the GAO was

2283 coming up with to strengthen the website for--some

2284 recommendations for privacy and security concerns, is that

2285 correct?

2286 Mr. {Woods.} Well, this particular report that we are

2287 speaking to today just deals with the contracting aspect--

2288 Ms. {DeGette.} Right. But you talked about--

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2289 Mr. {Woods.} Not--

2290 Ms. {DeGette.} But--

2291 Mr. {Woods.} Not for security and privacy. That--

2292 Ms. {DeGette.} Okay. So you are not looking at privacy
2293 and security?

2294 Mr. {Woods.} Other teams within GAO are looking at--

2295 Ms. {DeGette.} Are looking--

2296 Mr. {Woods.} And that work--

2297 Ms. {DeGette.} Are you aware of any security breaches
2298 in the websites, yes or no?

2299 Mr. {Woods.} No, I am not.

2300 Ms. {DeGette.} Okay. Now, the GAO made five
2301 recommendations you reference in your opening statement to
2302 CMS to avoid the mistakes that you had identified, is that
2303 correct?

2304 Mr. {Woods.} Yes.

2305 Ms. {DeGette.} And I just want to go through those
2306 recommendations, because you said we should. And I think it
2307 is important to know. The recommendations I think are good
2308 recommendations, but they are a little vague. And so I am
2309 going to ask you about each one of them if you have specific

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2310 details. But then also, I am going to ask you, Mr. Woods, to
2311 supplement your testimony and provide to this Committee, and
2312 to CMS, specific details on each one of them. Because I
2313 think it is important for the CMS to actually be able to
2314 implement these recommendations. And our last witness said
2315 he agreed with the recommendations, and he did want to
2316 implement them.

2317 The first recommendation is that CMS should take steps
2318 to assess the causes of the increase in cost of the continued
2319 development of Healthcare.gov and the delays in functionality
2320 of the website, and develop a plan to mitigate those costs
2321 and delays. Can you briefly give us a little more detail on
2322 what steps the GAO believes CMS should take to make those
2323 assessments?

2324 Mr. {Woods.} Certainly. We did see cost increases in
2325 the Accenture contract, the current contract--

2326 Ms. {DeGette.} So what steps do you think CMS can take
2327 to rectify these problems?

2328 Mr. {Woods.} We think that they need to step back and
2329 identify the causes, the reasons why costs continue to
2330 increase, in that particular contract.

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2331 Ms. {DeGette.} Okay. And do you have any thoughts what
2332 should be included in a mitigation plan?

2333 Mr. {Woods.} They need to make sure that costs are
2334 under control, and that the schedule can be met.

2335 Ms. {DeGette.} Yeah. I think those two things are key.
2336 Now, the next thing the GAO recommends is that quality
2337 assurance surveillance plans and other oversight documents
2338 are collected and used to monitor contract performance. How
2339 can those documents be effectively used to monitor
2340 performance?

2341 Mr. {Woods.} The quality assurance surveillance plan is
2342 a standard document that is required in most efforts of this
2343 size that provides a roadmap for how the Agency--any agency
2344 is going to oversee the contractor's performance.

2345 Ms. {DeGette.} Right. Does the GAO have thoughts on
2346 how it can be used to do that?

2347 Mr. {Woods.} Yes, it--

2348 Ms. {DeGette.} Okay. If you can give us that
2349 information, that would be great.

2350 Mr. {Woods.} Certainly.

2351 Ms. {DeGette.} I want to go through your other

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2352 recommendations briefly while I still have time.

2353 Mr. {Woods.} Certainly.

2354 Ms. {DeGette.} The GAO also recommends that CMS
2355 formalize existing guidance of the responsibilities of
2356 personnel assigned oversight duties. So as I understand it,
2357 the roles and responsibilities were spelled out in some way.
2358 How would formalizing existing guidance prevent confusion
2359 about the responsibilities and authority going forward?

2360 Mr. {Woods.} This gets to the issue of unauthorized
2361 individuals making changes.

2362 Ms. {DeGette.} Okay. Great.

2363 Mr. {Woods.} And when they learned of that, there was
2364 internal guidance provided to all of the people that--but
2365 that has not been institutionalized. It has not been made
2366 part of the permanent guidance at--

2367 Ms. {DeGette.} Okay. Okay. So they already have a way
2368 they are doing it? That just needs to be formalized?

2369 Mr. {Woods.} It needs to take the next step.

2370 Ms. {DeGette.} Perfect. Now, the next thing, you
2371 recommend giving staff direction on acquisition strategies
2372 and developing a process to ensure that acquisition

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2373 strategies are completed on-time. Can you flesh that out a
2374 little bit for us?

2375 Mr. {Woods.} That was a very important sufficiency that
2376 we identified is that there were a number of steps that CMS
2377 took to expedite the rollout of this--of Healthcare.gov.

2378 Ms. {DeGette.} Yeah.

2379 Mr. {Woods.} But each of those individual steps added
2380 risk to the process. And the purpose of the plan, of the
2381 acquisition strategy, is to first of all identify those risks
2382 to be able to come up with a plan to address them. And we
2383 found that that acquisition strategy was not prepared.

2384 Ms. {DeGette.} Right. So does GAO have some ideas what
2385 this process could look like if done appropriately?

2386 Mr. {Woods.} The process is already in place.

2387 Ms. {DeGette.} Okay.

2388 Mr. {Woods.} The regulations at HHS are very clear.

2389 Ms. {DeGette.} Okay.

2390 Mr. {Woods.} In fact, there is a template. It just
2391 wasn't done in this particular case.

2392 Ms. {DeGette.} Oh, great. So they just need to follow
2393 the existing way. Perfect.

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2394 Mr. {Woods.} Exactly.

2395 Ms. {DeGette.} Last, you recommended ensuring that
2396 information technology projects adhere to the requirements
2397 for governance board approvals before proceeding with
2398 development. What exactly does that mean? What governing
2399 board are you referring to? What are the requirements? And
2400 why did the board approval process fail the first time around
2401 with Healthcare.gov?

2402 Mr. {Woods.} Yeah. The Agency had a system in place
2403 that provided for an oversight board to review the progress
2404 of the system. The problem that we found is that those
2405 governance board meetings were held with incomplete
2406 information, and that decisions were not made as we would
2407 have expected to either approve, disapprove or make
2408 modifications in the--

2409 Ms. {DeGette.} So what you are saying is once again,
2410 this was a failure to follow the existing rules that they
2411 had?

2412 Mr. {Woods.} There was a process in place. They did
2413 not follow it.

2414 Ms. {DeGette.} Thank you. Thanks for your indulgence,

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2415 Mr. Chairman.

2416 Mr. {Murphy.} Yes. I know recognize Ms. Ellmers from
2417 North Carolina for 5 minutes.

2418 Mrs. {Ellmers.} Thank you, Mr. Chairman. Thank you,
2419 Mr. Woods, for being with us today. And, you know, as I am
2420 sitting here listening to your report findings, I am
2421 incredibly amazed by the inefficiency that went forward with
2422 a plan of action that was in place. And I keep coming up
2423 with the same question of why? Why were these steps taken?
2424 Why was action taken the way that it was? Why were there
2425 unauthorized individuals making decisions? But I think one
2426 of the most glaring questions that I have, based on your
2427 findings, is that--and you use the word that they expedite--
2428 you know, they took measures to expedite the rollout, that
2429 that added risk, obviously. And that was a strayed--failed
2430 strategy, essentially. Why in your opinion, based on your
2431 findings, did they stay with that October 1 rollout date when
2432 they knew, based on what I am listening to, that it was not
2433 going to be accurate and successful, and that it would be a
2434 failure?

2435 Mr. {Woods.} Well, the law itself, the Affordable Care

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2436 Act set a hard deadline of January 1, 2014.

2437 Mrs. {Ellmers.} Um-hum.

2438 Mr. {Woods.} And they needed to have some period where
2439 consumers could determine their eligibility, look at plan
2440 availability and make decisions about what plans they wanted
2441 to choose by that January 1 date.

2442 Mrs. {Ellmers.} Um-hum. Um-hum. So they stuck with
2443 the October 1 date knowing that their time was running out,
2444 and that they--so now, this is me just again trying to
2445 process why they would go forward with something that
2446 obviously was not put together well, and the steps were
2447 taken--it wasn't an efficient system. And yet they were
2448 moving forward. So based on your knowledge, they had to go
2449 forward with that October 1 date so that they could have the
2450 enrollee numbers that they were relooking for by January 1,
2451 regardless of the fact that it wasn't going to work?

2452 Mr. {Woods.} That has been CMS' position is that they
2453 needed to stick with that October 1--

2454 Mrs. {Ellmers.} So they had to stick to that date,
2455 because they needed those numbers of individuals signing up
2456 essentially, yes?

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2457 Mr. {Woods.} Well, they needed to comply to have a
2458 system in place by October 1--by January 1 in order to comply
2459 with the Affordable Care Act.

2460 Mrs. {Ellmers.} Right. Okay. So I am going to go back
2461 to some of the questions also on the tax surge--when the tax
2462 surge was implemented. To the best of our knowledge, and
2463 based on your report findings, we understand that there was
2464 a, again, tax surge in October to fix the site after
2465 Healthcare.gov's failed October 1 launch. Based on your
2466 investigation, what actions did CMS take in October to fix
2467 the site?

2468 Mr. {Woods.} In October, they continued to work with
2469 CGI Federal.

2470 Mrs. {Ellmers.} Um-hum.

2471 Mr. {Woods.} But the level of frustration reached the
2472 point in November of 2013 where they sent yet another letter
2473 detailing the shortcomings of the contractor, asking for a
2474 corrective action plan. CGI responded to that, and clearly
2475 disagreed with CMS' assessment at that point.

2476 Mrs. {Ellmers.} Okay. So they were disagreeing with
2477 it. Were--so was CGI--I mean, because there were other

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2478 contractors involved too, was that--is that correct?

2479 Mr. {Woods.} There were many other contractors
2480 involved.

2481 Mrs. {Ellmers.} Yes.

2482 Mr. {Woods.} Correct.

2483 Mrs. {Ellmers.} Okay. But particularly, it was CGI
2484 that is where the frustration was--where the disconnect was?

2485 Mr. {Woods.} They were responsible for the heart of the
2486 system, if you will.

2487 Mrs. {Ellmers.} Okay.

2488 Mr. {Woods.} And that is where most of the dollars were
2489 in terms of contract expenditures.

2490 Mrs. {Ellmers.} Um-hum. So to that point, based on the
2491 fact that CGI was the main contractor for that, were there
2492 other contracts--was their contract extended? Was--were
2493 there any new issued contracts based on the frustration that
2494 CMS had?

2495 Mr. {Woods.} The CGI contract had been extended earlier
2496 until February of 2014.

2497 Mrs. {Ellmers.} And that was before October 1?

2498 Mr. {Woods.} I believe that was before October--

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2499 Mrs. {Ellmers.} Okay. So it was already extended
2500 before October 1?

2501 Mr. {Woods.} That is correct.

2502 Mrs. {Ellmers.} Okay. Then to that point, were there
2503 any other--again, getting back to this, were there any other
2504 contractors that were selected, knowing that CGI was not
2505 necessarily doing what was necessary for the repair of the
2506 website?

2507 Mr. {Woods.} The only contract that I am aware of is
2508 the new one to Accenture to continue with development of the
2509 federally facilitated marketplace.

2510 Mrs. {Ellmers.} Accenture. And can you refresh my
2511 memory on when that actually took place, when the new--that
2512 new contract went forward?

2513 Mr. {Woods.} That was January of 2014.

2514 Mrs. {Ellmers.} That was January. Okay. Okay. Well,
2515 Mr. Speaker--or excuse me. Sorry. Mr. Chairman, I have gone
2516 over on my time, and I apologize. Thank you. Thank you, Mr.
2517 Woods.

2518 Mr. {Murphy.} Thank you. I now am going to recognize
2519 the gentleman from Virginia, Mr. Griffith, for 5 minutes.

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2520 Mr. {Griffith.} Thank you so much for--sorry. Thank
2521 you so much for being here today. I appreciate it very much.

2522 The report indicates that CMS did not engage in
2523 effective planning or oversight. Did you--what do you
2524 recommend they do in the future to make sure they have proper
2525 planning and oversight, because they apparently dropped the
2526 ball?

2527 Mr. {Woods.} They have the tools in place.

2528 Mr. {Griffith.} Okay.

2529 Mr. {Woods.} One of the primary tools is a strategic
2530 plan. An acquisition strategy is what it is called. There
2531 is actually a template in the HHS' regulations for each of
2532 the areas that needs to be addressed. And fundamentally, it
2533 is a tool designed to identify the risks that the Agency is
2534 undertaking, and to be able to come up with a plan to be able
2535 to mitigate those risks. But they did not follow it. So the
2536 tools are there. They did not use the tools that were there.

2537 Mr. {Griffith.} Now, I might ask you an open-ended
2538 question because I think it is important that we get this
2539 perspective from time to time. And that would be out of the
2540 report, what have we not asked you about that we probably

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2541 should have asked you about, or the people watching this at
2542 home, something that they ought to know about your report
2543 that you haven't already covered in your testimony here
2544 today?

2545 Mr. {Woods.} Well, one thing that comes to mind is the
2546 next enrollment period.

2547 Mr. {Griffith.} Um-hum.

2548 Mr. {Woods.} I think people are wondering, are we going
2549 to experience similar problems, or are we in better shape?
2550 And that is why we have one of our recommendations that is
2551 focused on the current contract with Accenture where we have
2552 seen some cost growth, and we think the Agency needs to make
2553 an assessment of why that cost growth has occurred, why--
2554 whether they are in fact on schedule, and whether there are
2555 any risks to the 2015 enrollment period?

2556 Mr. {Griffith.} And my hearing is not as good as it
2557 should be. You are talking about the cost growth--what was
2558 that phrase you used?

2559 Mr. {Woods.} Cost increases. We--

2560 Mr. {Griffith.} Okay.

2561 Mr. {Woods.} And we have somewhat of a disagreement

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2562 with the Agency about the term cost growth. And that is why
2563 I am reluctant to use it. Their position is that any cost
2564 increase since about April of this year is totally based on
2565 new requirements, so their--it is unfair to call that cost
2566 growth. Our position is that when you look--before that,
2567 when the initially awarded that contract at an estimated
2568 value of \$91 million, and now it is at 175, that the Agency
2569 needs to make an assessment about why that--why those costs
2570 increased from the 91 to the 175.

2571 Mr. {Griffith.} What--

2572 Mr. {Woods.} And--let me just--and that may not--that
2573 is not the end of it. There are--that contract continues in
2574 place today. Our numbers are dated in terms of, you know, we
2575 completed our audit work a couple of months ago. So costs on
2576 that particular contract are almost certainly higher today
2577 than they were at the time that we completed our audit work.
2578 And we think the Agency needs to make an assessment about why
2579 costs continue to grow.

2580 Mr. {Griffith.} Well, I think they do ask well. And I
2581 appreciate you raising that point. And it is kind of
2582 interesting, it would seem to me some of those new

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2583 requirements are probably because it didn't work the first
2584 time around, wouldn't you agree?

2585 Mr. {Woods.} There are enhancements to the system.

2586 Mr. {Griffith.} Um-hum.

2587 Mr. {Woods.} They are constantly changing and trying to
2588 make improvements to the system. The ones that--early on, I
2589 think you are right that those are related to the inability
2590 of the system to function as intended originally. But the
2591 Agency tells us the more recent cost increases are due to
2592 enhancements.

2593 Mr. {Griffith.} All right. Well, I appreciate that.
2594 And I appreciate your testimony here today. And I am happy
2595 to yield my last 55 seconds to whomever might want it.

2596 Mrs. {Ellmers.} I will--

2597 Mr. {Murphy.} Ms. Ellmers?

2598 Mrs. {Ellmers.} Thank you. Thank you. I do have one
2599 follow-up question. And it has to do with the conversation
2600 you were just having with my colleague. When we are talking
2601 about the cost increases, you had mentioned that enhancements
2602 are what has been cited as the reasoning. My question for
2603 you is, did CMS get congressional approval for the additional

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2604 funding or spending, I guess I should say?

2605 Mr. {Woods.} Yeah. I am not aware of what that process
2606 was at all.

2607 Mrs. {Ellmers.} So to your knowledge, and based on the
2608 report, you did not see any effort put forward to come to
2609 Congress for additional funding for spending?

2610 Mr. {Woods.} I can't speak to that. We didn't see it,
2611 but that wasn't part of your review.

2612 Mrs. {Ellmers.} Okay. Thank you, Mr. Woods. And thank
2613 you to my colleague for yielding.

2614 Mr. {Murphy.} Thank you. I am going to do a second
2615 round with Ms. DeGette and I. So just as a follow-up here,
2616 are you saying that CMS is not analyzing why the contract
2617 with Accenture is growing in cost?

2618 Mr. {Woods.} We don't think that they have done that
2619 fully yet.

2620 Mr. {Murphy.} This original contract, which was a cost
2621 plus contract, who signed that contract? Who is responsible
2622 for that?

2623 Mr. {Woods.} Those contracts are signed by the
2624 contracting officer. And as I said, I don't have that name

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2625 in front of me.

2626 Mr. {Murphy.} Do those have to be approved by Mr. Cohen
2627 and Ms. Tavenner?

2628 Mr. {Woods.} I don't know.

2629 Mr. {Murphy.} Do you know, in their chain?

2630 Mr. {Woods.} I don't know.

2631 Mr. {Murphy.} Is that something that your study
2632 encompassed to find that paper trail or look at that?

2633 Mr. {Woods.} We did not review--no--that, no.

2634 Mr. {Murphy.} Well, let me ask you too. You talked
2635 about the pressure of deadlines, the January 1, 2014. But a
2636 number of delays were put into place, the employer mandate or
2637 the retirement issue, enforcement of canceled plans,
2638 individual man-night--individual mandate to the shop plan.
2639 Should the rollout have been delayed as well?

2640 Mr. {Woods.} I am not sure about that. But your
2641 observation about delays is accurate. When they realized
2642 that they would not be able to be fully functional by October
2643 1, they did make some tradeoffs and pushed projects that they
2644 thought they were initially going to be able to complete by
2645 October 1, pushed that off into the future. And the small

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2646 business program that you mentioned is one of them. The
2647 financial management module was also pushed off until a later
2648 date.

2649 Mr. {Murphy.} Now, did it--but none of those delays
2650 caused a delay in the website? Those were not--none of
2651 those--many of things that are mentioned. They didn't cause
2652 a delay in the website readiness? There was--these several
2653 dozen other changes internally which--which were one of the
2654 factors in delay in the website readiness though, am I
2655 correct?

2656 Mr. {Woods.} Well, the website was launched. I am not
2657 sure--

2658 Mr. {Murphy.} Well, you had said a number of decisions
2659 made during I guess this 2013 to 2012, were part of the
2660 complexity that--you mentioned a couple--many things. One,
2661 there wasn't proper oversight of the contract. And the
2662 second thing, a number of internal changes were made by
2663 someone who didn't have the authority to make those changes.

2664 Mr. {Woods.} That is correct.

2665 Mr. {Murphy.} So do you know, or can you find out for
2666 us, in terms if someone is making these changes, who approved

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2667 the decision for them to these changes, or who gave that
2668 person the authority to be in that position to make those
2669 changes? Do you have that information?

2670 Mr. {Woods.} There are a number of people working with
2671 the contractors on a day-to-day basis. And the 40 instances
2672 of changes, or direction to the contract, was made by
2673 multiple individuals. Some of these were technical people,
2674 as I said, working side-by-side with the contractor. Some of
2675 them were more senior officials. All of the changes though
2676 ultimately were ratified by the person with authority to do
2677 that, and that is the contracting officer.

2678 Mr. {Murphy.} But what, did it go to the level of Ms.
2679 Tavenner or Mr. Cohen?

2680 Mr. {Woods.} I don't know.

2681 Mr. {Murphy.} Is that something your records could
2682 reveal? This is a follow-up to what Ms. DeGette was asking
2683 as well. We need to know if your records show, or if you can
2684 find out for us--I don't think--you have an excellent
2685 investigation. But it is very important to know this, if
2686 they knew or should have known in terms of approving these
2687 changes, or being aware that the website wasn't ready, or--

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2688 well, just let me ask that part. Do you have any information
2689 on those?

2690 Mr. {Woods.} Well, as I said, we will certainly review
2691 our materials and provide an answer to that question.

2692 Mr. {Murphy.} Because it comes to this point, this
2693 Committee, members of each side of the aisle has different
2694 points of view on issues with regard to healthcare reform.
2695 That is fine. That is part of what makes our nation great.
2696 People have differences of opinion, they move forward on
2697 that. But there are certain standards within a committee
2698 that I think we should be unified in understanding that if
2699 someone comes before this Committee under oath and claims
2700 that something is ready to roll out on October 1, that
2701 everybody should be able to sign up, knowing full well that
2702 it is not, it is either incompetence, it is dereliction of
2703 duty, it is sloppiness, it is lack of supervision oversight,
2704 or it is perjury to this Committee. It is perjury in terms
2705 of making they know is not true, or making the claim they
2706 have no business of making. The only answers to questions
2707 like is the website ready October 1 are yes, no or I don't
2708 know. Anything beyond that, when the claim was made by Mr.

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2709 Cohen to this Committee under oath that October 1, everybody
2710 would be ready to sign up, it is clear from your
2711 investigation and your testimony that people within the
2712 agencies knew it was not ready. So any information you could
2713 provide us that tells us if they knew and made false claims
2714 to this Committee, or if they didn't know and made false
2715 claims to this Committee, it is important for the integrity
2716 of this Committee to let us know. And if you could submit
2717 those--that information to this Committee, I would be
2718 grateful, your papers and other reviews of that.

2719 Ms. DeGette, you are recognized for 5 minutes.

2720 Ms. {DeGette.} Thank you very much, Mr. Chairman. And,
2721 Mr. Woods, I can understand why the Chairman is concerned
2722 about this, based on your testimony today. So I want you to
2723 think very clearly about what your investigation found and
2724 what you have testified to this Committee today when I asked
2725 you these questions, because I don't want the record to be
2726 confused. And I don't want a misimpression to be left.

2727 Are you aware of a--either Ms. Tavenner or Mr. Cohen
2728 coming before this task Committee and lying about whether
2729 they knew that the website was not ready?

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2730 Mr. {Woods.} No, I cannot speak to that. I don't know.

2731 Ms. {DeGette.} You don't know. Do you know whether Ms.

2732 Tavenner or Mr. Cohen personally knew that the website was

2733 not ready, yes or no?

2734 Mr. {Woods.} No, I do not know.

2735 Ms. {DeGette.} You don't know that. Do you know

2736 whether Ms. Tavenner or Mr. Cohen specifically approved those

2737 changes?

2738 Mr. {Woods.} No, I do not know.

2739 Ms. {DeGette.} You don't know that either.

2740 Mr. {Woods.} No.

2741 Ms. {DeGette.} Do you know who within the Agency did

2742 approve those changes?

2743 Mr. {Woods.} Ultimately, those changes were ratified

2744 and approved by the contracting officer.

2745 Ms. {DeGette.} The contracting officer. So you could

2746 give us that information, who that was?

2747 Mr. {Woods.} Absolutely. Yes.

2748 Ms. {DeGette.} Thank you very--I just think--and I know

2749 the Chairman agrees. We don't want to loosely be throwing

2750 around allegations of perjury or anything else when we know--

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2751 and we don't want to put words in your mouth either. So I
2752 think we are clear on that.

2753 There is one more thing I wanted to clarify about your
2754 testimony today. Your first recommendation that in your
2755 report on this topic, as we discussed was taking immediate
2756 steps to assess the causes or continued FFM cost growth and
2757 delayed system functionality, and develop a mitigation plan
2758 designed to ensure timely and successful system performance.
2759 Is that right?

2760 Mr. {Woods.} That is correct.

2761 Ms. {DeGette.} And that is the one you are concerned
2762 about CMS following as they look at implementation of the
2763 2015 program, is that correct?

2764 Mr. {Woods.} The effort that is underway by Accenture
2765 is to move the development forward to be ready for the 2015--

2766 Ms. {DeGette.} Right. And that relates to that
2767 recommendation?

2768 Mr. {Woods.} Yes, it does.

2769 Ms. {DeGette.} Okay.

2770 Mr. {Woods.} We think--

2771 Ms. {DeGette.} And--

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2772 Mr. {Woods.} We--

2773 Ms. {DeGette.} What?

2774 Mr. {Woods.} We think that CMS needs to make that
2775 assessment in order to ensure itself it is on track for that
2776 enrollment period.

2777 Ms. {DeGette.} Right. For next year. Right.

2778 Mr. {Woods.} Right.

2779 Ms. {DeGette.} Now, you were sitting here I believe
2780 when we heard the testimony of the previous witness, is that
2781 correct?

2782 Mr. {Woods.} Yes, I was.

2783 Ms. {DeGette.} Mr. Slavitt. And I specifically asked
2784 Mr. Slavitt if he had reviewed the five recommendations GAO
2785 had made. Do you remember hearing that?

2786 Mr. {Woods.} Yes.

2787 Ms. {DeGette.} And do you remember hearing Mr. Slavitt
2788 say that CMS agrees with all five of the recommendations? Do
2789 you remember hearing that?

2790 Mr. {Woods.} I remember hearing that, yes.

2791 Ms. {DeGette.} Okay. So I would just--you know,
2792 sometimes I like to have both the Agency witness and the GAO

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2793 so that they can answer each other's issues. But I just want
2794 the record to be clear that Mr. Slavitt has said that they
2795 recognize this recommendation, they intend to comply with it.
2796 And I think, Mr. Chairman, we should follow-up and make sure
2797 that happens. Thank you. And I yield back the balance of my
2798 time.

2799 Mr. {Murphy.} Okay. Thank you. I now recognize Dr.
2800 Burgess for 5 minutes.

2801 Dr. {Burgess.} Thank you, Mr. Chairman. Mr. Woods,
2802 thank you for being here. And let me just commend the
2803 General Accountability Office on great work. This has not
2804 been easy, and I appreciate how difficult it has been to be
2805 here today. And I appreciate your forbearance.

2806 Now, along the lines of what Ms. DeGette was just asking
2807 you, do you know whether or not the Center for Medicare and
2808 Medicaid Services is adopting your recommendations right now?

2809 Mr. {Woods.} What they told us is that they fully
2810 agreed with four of our recommendations, and they partially
2811 concurred with our fifth recommendation.

2812 Dr. {Burgess.} Have you any evidence that you can point
2813 to that shows that in fact they are taking steps to comply

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2814 with four of those recommendations?

2815 Mr. {Woods.} We have seen some indication--

2816 Dr. {Burgess.} Well, you have their assurances, but is
2817 there anything in--that you can point to in data and fact
2818 that they are taking those recommendations?

2819 Mr. {Woods.} What they told us is that they are
2820 providing additional training in certain areas that they plan
2821 to implement those recommendations. We are hopeful that they
2822 do. We have a normal regular process for following-up with
2823 agencies to make sure that if they tell us that they are
2824 going to implement recommendations that they in fact do so.

2825 Dr. {Burgess.} Okay.

2826 Mr. {Woods.} So that process will continue at GAO.

2827 Dr. {Burgess.} Well, and I look forward to the follow-
2828 up hearing we have about that implementation.

2829 Now, you know, a lot was written in August of 2012 about
2830 the lack--CMS' or HHS' lack of production on rulemaking as it
2831 related to the essential health benefit. And, in fact, that
2832 rulemaking was delayed. The rule actually came out about a
2833 week after Election Day that year. I don't know if you
2834 recall that? In your work, was there any evidence that that

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2835 delay was politically motivated? Or am I just being overly
2836 sensitive and overly cynical by the rule coming out a few
2837 days after Election Day 2012?

2838 Mr. {Woods.} We found no indication of that, sir.

2839 Dr. {Burgess.} So your inference is I am being overly
2840 cynical?

2841 Mr. {Woods.} We can't--we found nothing to point us in
2842 that direction.

2843 Dr. {Burgess.} Well, let me just point out to you, why-
2844 -on this Committee, it has come up several times today. I
2845 mean, Mr. Cohen was here. I think it was about 10 or 11 days
2846 before October 1. And I asked him a very direct, very
2847 specific question. In fact, I tried to do a John Dingell and
2848 said yes or no, the website will be ready on October 1? He
2849 gave me what I presumed to have been a well-rehearsed and
2850 studied answer, because he repeated it verbatim twice. And
2851 it essentially said on October 1, consumers will be able to
2852 go online, see premium net of subsidy, and make their
2853 purchase. Now, as we know, that didn't actually turn out to
2854 be the case. So it is a valid question to ask. He must have
2855 known that 10 days before the launch date, because it sounds

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2856 like from your report that it was pretty clear that things
2857 weren't going well. Am I wrong about that?

2858 Mr. {Woods.} I simply can't speak to what he knew or
2859 didn't know at any particular point in time.

2860 Dr. {Burgess.} Well--

2861 Mr. {Woods.} But I can say that we found indications in
2862 the documents that we reviewed that the system was projected
2863 to be only 65 percent complete by that October 1 deadline.

2864 Dr. {Burgess.} If you had been sitting here and asked
2865 that question, and reminded that you were under oath, would
2866 you have answered it the same way Mr. Cohen did?

2867 Mr. {Woods.} I can't really respond to--

2868 Dr. {Burgess.} Well, let me ask you this, because you
2869 have got written in your report, as the October 1, 2013
2870 deadline for establishing enrollment through the website
2871 neared, CMS identified significant performance issues
2872 involving the FFM, the Facilitated Federal Marketplace,
2873 contractor. But the Agency took over only limited steps.
2874 Can you provide for the Committee what correspondence, what
2875 evidence, what documents you relied upon to come to that
2876 conclusion, to make that statement?

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2877 Mr. {Woods.} Absolutely. We can summarize what led us
2878 to that conclusion. And we would be happy to do that.

2879 Dr. {Burgess.} Were--as a part of making this
2880 statement, what--did you have access to internal e-mails
2881 within the Center for Consumer Information and Insurance
2882 Oversight at CMS?

2883 Mr. {Woods.} We reviewed lots of documents, contract
2884 documents, e-mails, memos. So we had very good access to
2885 lots of information from CMS.

2886 Dr. {Burgess.} And I appreciate that. I would simply
2887 ask that that access be made available to this Committee, the
2888 documents, the e-mails, the transcripts that you have, would
2889 make that available to our Subcommittee, for the staff--

2890 Ms. {DeGette.} Mr. Chairman, I believe we already have
2891 that information in this Subcommittee.

2892 Mr. {Murphy.} Well, let us find out.

2893 Ms. {DeGette.} It has been produced already.

2894 Dr. {Burgess.} Again, I would ask that we be certain
2895 that you have produced the information the Subcommittee staff
2896 is asking for.

2897 Mr. {Woods.} We would be happy to work with the

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2898 Committee on that.

2899 Dr. {Burgess.} And let me just ask you one last thing.
2900 Are--in your opinion, is the website--open enrollment period
2901 this time is going to be much shorter than last time. In
2902 your opinion, are they going to be ready for the second open
2903 enrollment period?

2904 Mr. {Woods.} I am not in a position to make that
2905 judgment. That is why we had the recommendation that we did
2906 is that we think CMS needs to make that assessment of cost
2907 and schedule to make sure that they are on track.

2908 Dr. {Burgess.} Because there is the possibility they
2909 would not be able to meet that?

2910 Mr. {Woods.} We said in the report that that's the risk
2911 is that there could be some impact on the 2015 enrollment
2912 period, and that is why we had the recommendation that we
2913 did.

2914 Dr. {Burgess.} Okay. And I thank you for your answers.

2915 Mr. {Murphy.} The gentleman's time has expired.

2916 Dr. {Burgess.} And I thank you for being here. I yield
2917 back.

2918 Mr. {Murphy.} Thank you. I ask unanimous consent that

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2919 the member's written opening statements be introduced into
2920 the record. And without objection, the documents will be
2921 entered into the record.

2922 [The information follows:]

2923 ***** COMMITTEE INSERT *****

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|

2924 Mr. {Murphy.} Mr. Woods, I want to thank you for your
2925 thorough and candid GAO report. All this Committee requests
2926 is honesty, thoroughness and details. And GAO's reputation
2927 as a nonpartisan investigative report committee--
2928 organization--is based on that ability to honestly and
2929 thoroughly provide the truth to a candid world. So we
2930 appreciate that.

2931 Members will have several questions for follow-up. We
2932 do ask that you respond to them in a quick manner. We also
2933 ask your commitment that you will share your work with our
2934 majority and minority staffs, so they can also review them
2935 with you and get other details.

2936 So in conclusion, I would like to thank all the
2937 witnesses and members that participated in today's hearing,
2938 remind members they have 10 business days to submit questions
2939 for the record.

2940 And with that, I adjourn this hearing.

2941 [Whereupon, at 12:53 p.m., the subcommittee was
2942 adjourned.]