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Via E-Mail

December 21, 2015

Hon. Tim Murphy,
Chair, Subcommittee on Oversight and Investigations
U.S. House Committee on Energy and Commerce
Washington, DC 20510

Chairman Murphy:

Thank you again for the invitation to appear before the Subcommittee on Oversight and Investigations on Thursday, November 5, 2015, to testify at the hearing entitled "Examining the Costly Failures of Obamacare's CO-OP Insurance Loans." I enjoyed the opportunity to discuss the Tennessee Department of Commerce and Insurance's (TDCI) experience with Community Health Alliance (CHA) and our current efforts to runoff company operations. Please see the responses below to questions posed in your December 10, 2015 letter, separated by the individual requests.

The Honorable Tim Murphy

1. Ms. McPeak, you were instrumental in regulating the CO-OP so that premium prices were appropriate and consumers were protected.

    a. What problems did your state's CO-OP encounter that led to its closure?

       Response: *For CHA, and presumably other CO-OPs, to be viable over the long-term, successful first year operations were critical. Unfortunately, CHA experienced significant challenges in its first year of operations. CHA entered the Tennessee market solely with exclusive provider organization (EPO) plans offering no out-of-network benefits while other marketplace carriers offered broader preferred provider organization (PPO) plans which included out-of-network benefits. In addition, CHA plans were priced approximately 20 percent above the marketplace leader which lead to minimal membership in 2014. Those factors, plus a population that had the highest average risk score in the U.S. according to the U.S. Centers for Medicare and Medicaid Services (CMS), contributed to the company recording a net loss of approximately $22 Million at year-end 2014.*

CHA experienced further challenges in 2015 when its membership grew to more than 40,000 covered lives before TDCI and CMS froze CHA enrollment on January 15, 2015. In September and October of 2015, CMS first announced its intent to place CHA on a corrective action plan (CAP) and on an enhanced oversight plan (EOP). Subsequently, on October 5, CMS released information that made it clear that the inability of the Risk Corridor Program to be fully funded would create a net worth deficiency for CHA that could not ultimately be cured.

b. Does your state's CO-OP have enough money to support consumers and pay its claims through the end of the year? If no, then how will claims be paid?

Response: *TDCI continues to work with CMS and CHA representatives to run off company operations. At this time, we believe that CHA has enough money to pay all claims incurred through December 31, 2015.*

c. What was the CO-OP's projected enrollment? Did they reach it?

Response: *CHA projected to reach between 22,000 and 30,000 enrollees in 2015. At their highest enrollment in 2015 before the enrollment freeze, the company had over 40,000 enrollees. For the remainder of 2015, they have around 25,000 current enrollees.*

2. CMS converted solvency loans to start-up loans in seven CO-OPs, so the loans would artificially appear more financially secure.

   a. Did CMS approach you about converting solvency loans as start-up loans so the CO-OP would appear to have more capital on the books?

   Response: *CMS released guidance entitled "Amending CO-OP Loans Agreement to Apply Surplus Notes to Start-up Loans" on July 9, 2015. That guidance was made available to CO-OPs across the country and CHA executives referenced the conversion guidance in several conversations with TDCI staff through October 2015. CMS did not formally approach TDCI to request that we approve a conversion.*

   b. If yes, do you believe it makes sense to convert the loans? Why?

   Response: *The Department made very clear to CHA executives that we would not approve any startup loan conversion unless that conversion was done bilaterally between CMS and CHA at which point Statutory Accounting Principles would require the loan money to be classified as surplus.*

   c. What problem would converting the loans solve?

   Response: *N/A*

3. CMS has created "enhanced oversight plans" as a measure to evaluate troubled CO-OPs.

    a. Did CMS place your CO-OP under an enhanced oversight plan?

    Response: *Yes. On September 29, 2015, CMS wrote to CHA announcing its intent to place CHA on a corrective action plan (CAP) and on an EOP.*

    b. If yes, explain what the "oversight plan" entailed.

    Response: *The EOP, which was attached as an exhibit to my written testimony, included several reporting requirements, such as progress updates on enrollment projects, complaints, claims, and company financial information.*

    c. Did the "oversight plan" conflict with other guidance or feedback from CMS?

    Response: *TDCI is not aware of the EOP conflicting with other CMS guidance.*

<u>**The Honorable Marsha Blackburn**</u>

1. Ms. McPeak, during the hearing you estimated that CMS enrollment projections for the TN CO-OP were between twelve and fifteen thousand in its first year, growing to around twenty thousand in 2015. What projection were you given for 2016 enrollment?

    Response: *In phone calls with CHA executives, TDCI officials were told that the company needed enrollment of at least 23,000 in 2016 to remain viable.*

I hope these responses assist in your review of the CO-OP Program. Your staff is welcome to coordinate any future follow up through Michael Humphreys, my Assistant Commissioner for Insurance, at Michael.humphreys@tn.gov.

Sincerely,

[redacted]

Commissioner