

Opening Statement of the Honorable Tim Murphy
Subcommittee on Health and Subcommittee on Oversight and Investigations
Joint Hearing on “The Affordable Care Act on Shaky Ground: Outlook and Oversight”
September 14, 2016

(As prepared for delivery)

Today, we are here to examine two failed programs of the Affordable Care Act (ACA): the State Based Exchanges and the Consumer Oriented and Operated Plans, known as “CO-OPs”. First, I want to highlight and thank the HHS Inspector General and the Government Accountability Office for their continued participation and good work for this Committee. This hearing, as part of the ongoing oversight of the ACA, will specifically focus on the current state of implementation and challenges of the State-Based Exchanges and CO-OPs.

The Committee began its investigation of the State-Based Exchanges in the spring of 2015. We aimed to examine why the state exchanges failed to correctly and effectively utilize billions in federal grant funding. The Committee requested and received documents from the 17 original state exchanges, and over the course of two hearings, heard testimony from state exchange leaders and federal officials.

Our investigation found that the Centers for Medicare & Medicaid Services (CMS) effectively wasted \$4.6 billion in grants due to excessively careless management and oversight. Disappointingly – and despite the fact that four out of 17 state exchanges have closed down – a very small, and very inconsequential, amount of improperly spent federal dollars have been recouped by CMS.

We were told that state exchanges would be self-sustaining by January 1, 2015 and afterwards, any continued use of federal grant money would be illegal. Yet today, every state exchange is still using federal money. Moreover, some state exchanges went so far as to violate federal rules and used Medicaid dollars to pay for unallowable state-based exchange expenses. The details and findings from the Committees’ investigation are outlined in our report that was released yesterday, September 13, 2016.

In addition to the work that we have done on State Exchanges, the Subcommittee held a hearing last November on the CO-OPs and their costly failures. We examined the factors that contributed to the collapse of now 17 out of 23 CO-OPs; what oversight mechanisms CMS used to monitor the CO-OPs; and the likelihood that the federal government would recoup any of the loans awarded to the failed CO-OPs.

Since the hearing in November, five more CO-OPs have closed, leaving only six of the original 23 remaining. These failed CO-OPs have cost the American taxpayers a total of \$1.8 billion dollars. Similar to the state exchanges, the Committee’s investigation into the CO-OPs found that they were disadvantaged from the start –rigorous loan agreements, restrictions to obtain outside capital, and flawed premium stabilization programs made financial stability near impossible.

What ultimately contributed to the failure of CO-OPs, however, was CMS’ mismanagement and ineffective oversight, as they failed on numerous occasions to assist the CO-OPs when needed. Recently, HHS-OIG released a report which found that the majority of CO-OPs are nearing bankruptcy, making it highly unlikely that the remaining six CO-OPs will pay back their loans. This will result in the loss of even more taxpayer money and leaving hundreds of thousands of Americans displaced with insurance coverage. The details and findings from the Committees’ investigation are outlined in our report that was released yesterday, September 13, 2016.

While we look forward to a productive dialogue with our witnesses today, I want to note that on behalf of this Committee, we are deeply troubled by the findings of this investigation. Ultimately, what we are seeing is the Affordable Care Act failing the American people. The objective of the law was to provide health insurance to those who could not afford it, yet these findings prove that the ACA is accomplishing just the opposite. Hundreds of Americans have been uprooted from their plans and left without any insurance coverage. Both of the Committee reports suggest recommendations for legislative and administrative changes to address the concerns highlighted in the reports. It is my hope, then, that we are able to have an honest and open conversation about the reality of this legislation and discuss solutions, rather than continuing to identify its well-known problems.

Today we will hear from CMS' Acting Administrator Andy Slavitt, the Deputy Inspector General for Audit Services at the HHS OIG Ms. Gloria Jarmon, and Director of Audit Services for GAO's Forensic Audit and Investigative Services mission team, Mr. Seto Bagdoyan. I thank the witnesses for testifying today and look forward to hearing answers to our questions.

###