



# THE COMMITTEE ON ENERGY AND COMMERCE

## MEMORANDUM

December 9, 2013

To: Members, Subcommittee on Health

From: Majority Committee Staff

Re: Hearing Entitled “PPACA Implementation Failures: What’s Next?”

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On Wednesday, December 11, 2013, at 10:00 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Health will hold a hearing entitled “PPACA Implementation Failures: What’s Next?” This hearing will focus on problems with the implementation of the Patient Protection and Affordable Care Act (PPACA).

### **I. WITNESSES**

The Honorable Kathleen Sebelius  
Secretary  
U.S. Department of Health and Human Services

### **II. BACKGROUND**

Open enrollment in the PPACA exchanges began October 1, 2013, with coverage planned to be effective on January 1, 2014. Prior to the open enrollment start date, many questions were raised related to the readiness, testing, and functionality of the exchanges. Similar questions were raised related to readiness of PPACA’s Medicaid expansion.

Since the October 1 start of open enrollment, major media outlets have described the launch of PPACA’s exchange program as “plagued by problems”<sup>1</sup> and “nothing short of disastrous.”<sup>2</sup> The launch of the exchanges has been fraught with significant problems that are leading to major delays for Americans attempting to shop for health coverage.

#### **Insurance Coverage and Affordability**

President Obama assured Americans during the debate of the law, as well as after its passage, “[i]f you like your health care plan, you’ll be able to keep your health care plan, period. No one will take it away, no matter what.”<sup>3</sup> However, individuals and small businesses have

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<sup>1</sup> Kelly Kennedy, “Health Care Exchange Still Plagued by Problems,” USA TODAY, October 16, 2013.

<sup>2</sup> Jan Crawford, “Obamacare Overload: Congress Demands Answers About Health Care Site,” CBS This Morning October 9, 2013, <http://www.cbsnews.com/video/watch/?id=50156756n>.

<sup>3</sup> President Obama, Remarks Before the American Medical Association (June 15, 2009).

experienced, or soon will face, the loss of their current health care coverage. 50 to 75 percent<sup>4</sup> of people who buy coverage on the individual market are likely to receive cancellation notices.

This loss of coverage was foreshadowed in regulations issued by the Administration on June 17, 2010.<sup>5</sup> The Administration then estimated that 49 percent to 80 percent of small-employer plans, 34 percent to 64 percent of large-employer plans, and 40 percent to 67 percent of individual insurance coverage would lose grandfathered status by the end of 2013.<sup>6</sup>

Patients also likely will face problems with the selection of providers participating in exchange plans. For example, 62% of hospitals had still not signed any exchange contracts according to a Morgan Stanley market analysis issued in September.<sup>7</sup> Edie Littlefield Sundby, a gallbladder cancer survivor, voiced her concerns in an op-ed in the *Wall Street Journal* that the loss of her health care plan has forced her to consider options in California's health exchange.<sup>8</sup> Such options would force her to choose a plan that covers her oncologist or primary care doctor, but not both.

These factors, along with the major technical problems with PPACA's exchanges, raise serious questions as to whether millions of Americans will have access to their doctor and other providers on January 1, 2014.

The affordability of premiums on the exchange also will be a major challenge for Americans. An Energy and Commerce Committee report issued in May found that consumers purchasing health insurance on the individual market may face premium increases of nearly 100 percent on average, with potential highs eclipsing 400 percent.<sup>9</sup> Meanwhile, small businesses can expect average premium increases in the small group market of up to 50 percent, with potential highs over 100 percent.

### Medicaid

The law also will have a major impact on the Medicaid program. If fully implemented, the law could add an additional 26 million more Americans to the Medicaid roster.<sup>10</sup> While some estimated that the law's coverage expansion in exchanges and Medicaid would be evenly split, the first month of enrollment has been dominated by Medicaid growth. In some areas, nine

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<sup>4</sup> Lisa Myers, Hannah Rapple, "Obama administration knew millions could not keep their health insurance," NBC News, October 29, 2013, <http://investigations.nbcnews.com/news/2013/10/29/21222195-obama-administration-knew-millions-could-not-keep-their-health-insurance?lite>.

<sup>5</sup> 75 FR 34537 – Interim Final Rules for Group Health Plans and Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act (June 17, 2010).

<sup>6</sup> Ibid.

<sup>7</sup> Andrew Schenker, Cornelia Miller, Ricky R. Goldwasser, "Health Care Facilities," Morgan Stanley, October 21, 2013.

<sup>8</sup> Edie Littlefield Sundby, "You Also Can't Keep Your Doctor," WALL ST. JOURNAL, November 3, 2013.

<sup>9</sup> Energy and Commerce Committee Majority Staff, "The Looming Premium Rate Shock," May 2013, <http://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/analysis/insurancepremiums/FinalReport.pdf>

<sup>10</sup> Centers for Medicare & Medicaid Services (CMS), Office of the Actuary (OACT). 2011 Actuarial Report on the Financial Outlook for Medicaid. <http://medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Financing-and-Reimbursement/Downloads/medicaid-actuarial-report-2011.pdf>

out of ten enrollees are in Medicaid.<sup>11</sup> For example, in Maryland, 82,473 people have enrolled in Medicaid expansion coverage, which accounts for 96 percent of total enrollment. The Maryland exchange enrolled 3,186 residents.<sup>12</sup> This growth raises questions regarding the impact of the expansion on current enrollees. The Committee also has asked the Administration to address States' concerns regarding how the implementation will affect them and their ability to properly administer their programs.<sup>13</sup>

### Security and Privacy

Finally, the Administration's implementation has fostered serious security, privacy, and fraud issues. These issues have arisen both within and outside of the website.<sup>14</sup>

## **IV. STAFF CONTACTS**

Should you have any questions regarding the hearing, please contact Paul Edattel, Monica Popp, and Katie Novaria at (202) 225-2927.

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<sup>11</sup> Sarah Kliff, "In first month, the vast majority of Obamacare sign-ups are in Medicaid," THE WASHINGTON POST, November 1, 2013, <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/10/31/in-first-month-the-vast-majority-of-obamacare-sign-ups-are-in-medicaid/>.

<sup>12</sup> Sterling Beard, "Over 96 Percent of Obamacare Enrollees in Maryland Signed up for Medicaid," NATIONAL REVIEW ONLINE, October 28, 2013, <http://www.nationalreview.com/corner/362389/over-96-percent-obamacare-enrollees-maryland-signed-medicaid-sterling-beard>.

<sup>13</sup> October 24, 2013, Letter from Chairmen Upton, Pitts and Murphy to CMS Administrator Marilyn Tavenner. <http://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/letters/20131024CMS.pdf>

<sup>14</sup> Laurie Kellman and Ricardo Alonso-Zaldivar, "Memo Raises New Concerns about Obamacare Website," ASSOCIATED PRESS, October 30, 2013; Jessica Silver-Greenberg and Susanne Craig, "Con Men Prey on Confusing Over Health Care Act." THE N.Y. TIMES, November 10, 2013