



THE COMMITTEE ON ENERGY AND COMMERCE

MEMORANDUM

June 10, 2014

To: Members, Subcommittee on Health

From: Majority Committee Staff

Re: Hearing Entitled “The President’s Health Care Law Does Not Equal Health Care Access”

On Thursday, June 12, 2014, at 10:00 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Health will hold a hearing entitled “The President’s Health Care Law Does Not Equal Health Care Access.” This hearing will focus on the challenges patients face accessing providers and medicines through coverage obtained in the Patient Protection and Affordable Care Act’s (PPACA) health insurance exchanges.

I. WITNESSES

- Scott Gottlieb, M.D., Resident Fellow, American Enterprise Institute;
- Monica Lindeen, Commissioner, Montana Office of the Commissioner of Securities and Insurance; and,
- William F. Harvey, MD, Chair, Government Affairs Committee, American College of Rheumatology.

II. BACKGROUND

During the debate concerning PPACA, President Obama and supporters of the law assured Americans that it would not disrupt access to the doctors and health plans they liked. When speaking to the American Medical Association, President Obama stated the following: “[W]e will keep this promise to the American people: If you like your doctor, you will be able to keep your doctor, period. If 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.”¹

Despite the President’s promise, millions of Americans received notices that their health coverage was being cancelled as the major requirements of PPACA were set to become effective on January 1, 2014.² Health insurance purchased in the individual or fully-insured group market after January 1, 2014, generally must conform to a number of coverage mandates. Therefore,

¹ Remarks by the President at the Annual Conference of the American Medical Association (June 9, 2009) <http://www.whitehouse.gov/the-press-office/remarks-president-annual-conference-american-medical-association>.

² Radnofky and Martin, *Canceled Policies Heat Up Health Fight. Concerns Extend Beyond Troubled Insurance*. The Wall Street Journal (Oct. 29, 2013) <http://online.wsj.com/news/articles/SB10001424052702304470504579166112171032056>.

consumers purchasing coverage from health insurance issuers are required to pay for the numerous benefit mandates included in PPACA and its implementing regulations.

The major benefit mandates imposed on coverage in PPACA include, among others, essential health benefits (generally requiring coverage for certain categories of benefits, such as maternity coverage and rehabilitative services); actuarial value (generally requiring a certain level of coverage on average for a standard population); preventive benefits and other services without cost-sharing; and new pricing regulations known as community rating (which places limitations on the variations in premiums between different customers). PPACA also includes several new taxes on the cost of health coverage that will pass on to consumers in the form of higher premiums, such as the health insurance tax and the medical device tax.

In order to offset some of the costs imposed by PPACA's numerous benefit mandates and taxes, health plans are turning towards the only major tools available under the law to offset such benefit mandates, such as increasing premiums and patient cost-sharing, limiting the number of doctors and providers included in a plan's networks, and imposing barriers to access medicines through increased use of tighter formularies, specialty tiers, and non-coverage of more costly prescription drugs.

Dr. Scott Gottlieb, Resident Fellow at the American Enterprise Institute noted:

These are the ways that [the President's health care law] cheapens the health coverage in order to pay for all of its expensive mandates . . . [To] pay for these benefits, the [health plans under PPACA] skimp on other things – principally the number of doctors you'll have access to, and also, the number of costlier branded drugs that make it onto formularies.³

Recent analysis confirms the increased use of these tools since PPACA's major requirements took effect. Dr. Gottlieb, in an analysis comparing an exchange plan to a comparable private health plan across several states, found dramatically narrower networks for cardiologists, oncologists, orthopedists, dermatologists, OB/GYNs, dermatologists, and gastroenterologists.⁴

The actuarial firm Milliman, in a report commissioned by the Pharmaceutical Research and Manufacturers of America, found that "silver" plans with combined deductibles offered through the PPACA's exchanges may require patients to pay more than double out of pocket for prescription medicines than they would under a typical employer-sponsored health plan.⁵

These issues raise major doubts as to whether patients can access care they need under PPACA.

³ Gottlieb, *No, You Can't Keep Your Drugs Either Under Obamacare*. Forbes (Dec. 9, 2013) <http://www.forbes.com/sites/scottgottlieb/2013/12/09/no-you-cant-keep-your-drugs-either-under-obamacare/>

⁴ Gottlieb, *Hard Data On Trouble You'll Have Finding Doctors In Obamacare*. Forbes (Mar. 8, 2014). <http://www.forbes.com/sites/scottgottlieb/2014/03/08/now-the-hard-data-on-the-trouble-youll-have-finding-specialist-doctors-in-obamacare/>.

⁵ Al-Faruque, *PhRMA Warns Out-of-Pocket Costs Could Double Under O-Care*. The Hill (May 15, 2014) <http://thehill.com/policy/healthcare/206227-phrma-warns-out-of-pocket-costs-could-double-under-o-care>.

III. STAFF CONTACTS

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