

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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June 4, 2014

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton:

I write in response to the press release that your Committee staff issued earlier this afternoon regarding the number of individuals who enrolled in health insurance plans on the Federally Facilitated Marketplace (FFM) who still must clarify certain information from their initial application. On June 3, 2014, Committee staff received a briefing from John Lau, the Vice President of Serco, the contractor responsible for obtaining information from beneficiaries needed to address ACA enrollment inconsistencies. Mr. Lau provided us with important information that calls into question the accuracy of the assertions made in your release.

Your release states that “Obamacare applications have at least 4 million errors.”¹ It is incorrect to refer to these inconsistencies as errors. Mr. Lau indicated in our briefing that inconsistencies include instances such as when an individual’s current income is different from the income listed on their 2012 tax return or when an individual had recently moved to a new state.

In addition, of the 4 million inconsistencies cited in your release, Serco informed Committee staff that roughly half were from enrollments that were never completed – the individuals who filled out these applications are not receiving coverage or subsidies.² This is because although slightly more than 8 million individuals enrolled into plans via the state and federal marketplaces, more than 13.5 million were determined eligible via the application

¹ Committee on Energy and Commerce, *New Documents Indicate Obamacare Applications Have At Least 4 million Errors as Backend Systems Remain Incomplete* (June 4, 2014).

² Briefing by John Lau, Vice President, Serco, to House Energy and Commerce Committee, Subcommittee on Oversight and Investigations Staff (June 3, 2014).

process.³ That means that roughly half of the inconsistencies cited in your release do not pertain to individuals that enrolled in ACA plans.

You also asserted that “taxpayers could now be on the hook for paying for subsidies for applications that were approved before being verified.”⁴ But Mr. Lau provided important context for this assertion. He indicated that upwards of 99% of these inconsistencies would be “innocuous” or “benign” and be easily resolved without major impact on beneficiaries’ costs or coverage. He also indicated that, based on his experience with Medicaid, he was “not surprised” by the number or type of inconsistencies. He told the Committee that it was “far more usual that someone has an inconsistency [in their application]...more than one.”⁵ These include examples such as a missing middle initial on an application or a misplaced digit in an address which, once resolved, will not change the subsidy that the individual receives.

Mr. Lau also told us that CMS had made “noticeable improvement” in finalizing the IT components necessary to resolve and mitigate any problems arising from inaccuracies in individual applications.⁶

At the close of the briefing, Mr. Lau specifically warned your staff about “jumping to conclusions” without fully understanding what the inconsistencies actually reflect. He told us that doing so “serves no purpose” and will only lead to unneeded “hysteria” and that it would result in “making a point on something that is not correct.” And yet, this is precisely what you have done.

Unfortunately, today’s misleading release is not the first time you have released false or misleading information about the ACA. From claims about death panels and job losses that never materialized to more recent claims about who has paid their premiums, you have established a poor track record of credibility with regards to your claims about the ACA.

³ *Health Insurance Marketplace: Summary Enrollment Report for the Initial Annual Open Enrollment Period*, Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation (May 1, 2014) (online at http://aspe.hhs.gov/health/reports/2014/MarketPlaceEnrollment/Apr2014/ib_2014Apr_enrollment.pdf).

⁴ Committee on Energy and Commerce, *New Documents Indicate Obamacare Applications Have At Least 4 million Errors as Backend Systems Remain Incomplete* (June 4, 2014).

⁵ Briefing by John Lau, Vice President, Serco, to House Energy and Commerce Committee, Subcommittee on Oversight and Investigations Staff (June 3, 2014).

⁶ *Id.*

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I hope that in the future you will be more careful about making false or misleading assertions about the ACA.

Sincerely,

A handwritten signature in blue ink that reads "Henry A. Waxman". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Henry A. Waxman
Ranking Member