THE STATUS OF THE AFFORDABLE CARE ACT IMPLEMENTATION

HEARING

BEFORE THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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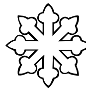

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THE STATUS OF THE AFFORDABLE CARE ACT IMPLEMENTATION

THURSDAY, AUGUST 1, 2013

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The Committee met, pursuant to notice, at 10:01 a.m., in Room 1100, Longworth House Office Building, Hon. Dave Camp [Chairman of the Committee] presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
Thursday, July 25, 2013
No. FC–12

CONTACT: (202) 225–3625

Chairman Camp Announces Hearing on the Status of the Affordable Care Act Implementation

House Committee on Ways and Means Chairman Dave Camp (R–MI) today announced that the Committee will hold a hearing on the current status of the Obama Administration's efforts to implement the Affordable Care Act (ACA). The Committee will hear testimony from Daniel Werfel, Principal Deputy Commissioner and Deputy Commissioner for Services and Enforcement at the Internal Revenue Service (IRS) and Gary Cohen, Deputy Administrator and Director at the Center for Consumer Information and Insurance Oversight within the Centers for Medicare & Medicaid Services at the U.S. Department of Health and Human Services (HHS). **The hearing will take place on Thursday, August 1, 2013, in 1100 Longworth House Office Building, beginning at 10:00 a.m.**

In view of the limited time available to hear from the witnesses, oral testimony at this hearing will be from the invited witnesses only. However, any individual or organization not scheduled for an appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

On October 1, 2013, open enrollment is scheduled to begin in 51 new healthcare exchanges. While the majority of Americans will continue to obtain qualified coverage through an employer, others will seek coverage through the exchange. The ACA requires that the exchanges perform multiple functions, including coordinating and sharing information across several Federal agencies. The ACA tasks both HHS and the IRS with extensive new responsibilities that must be carried out in order for the exchanges to properly function and efficiently enroll millions of Americans into private healthcare plans offered in conjunction with the ACA's requirement that individuals purchase government-approved insurance. Alternatively, those that choose to remain uninsured will pay a tax.

The building of the exchanges represents one of the largest information technology projects in U.S. history. The success or failure of implementation will determine, in part, on whether Americans face higher or lower premiums, whether individuals understand how or if they need to purchase coverage through the exchange, whether subsidies are administered accurately and efficiently, and whether the exchanges are prepared to properly handle the personal information of millions of Americans.

While the Administration has testified that implementation is on schedule, recent regulatory announcements have raised concerns about readiness of a program that is a hallmark of the law. On Tuesday, July 2, 2013, a posting on a U.S. Treasury tax blog announced that the employer reporting requirements and the employer mandate tax penalties "will not apply until 2015." On July 5, 2013, HHS regulations revealed that for 2014, the Administration would rely extensively on self-attestation of an individual's income and offer of employer-sponsored insurance when enrolling in an exchange. The announcement raises new questions about whether the decision, reached in part because the employer reporting requirements have been delayed, could expose individuals to new penalties resulting from unintentional reporting mistakes. The announcements follow a June 2013 Government Accountability Office report about the status of the exchanges which warned, "much remains to be

accomplished within a relatively short amount of time . . . [and] suggest a potential for implementation challenges going forward. . . . Whether CMS's contingency planning will assure the timely and smooth implementation of the exchanges by October 2013 cannot yet be determined."

This hearing will examine the status of efforts of both HHS and the IRS to implement the provisions of the Affordable Care Act under their jurisdiction. The hearing will seek answers to why delays are occurring, if any additional delays should be expected, and whether in fact the exchanges will be ready to fulfill all of their required functions on October 1, 2013.

In announcing the hearing, Chairman Camp stated, **"Members of Congress, from both sides of the aisle, have raised concerns about whether Obamacare will be ready and will work on October 1st. The Administration's repeated promises that 'we'll be ready,' is simply not a sufficient response. Amidst growing, independent evidence that the Administration is far behind schedule, Congress and the American people need specific answers. The American people want to know how much their health insurance plans will cost, how and where to accurately comply with the new law, and assurance that this massive new data collection is safe, secure, and will protect their personal information."**

FOCUS OF THE HEARING:

The hearing will focus on the status of the Obama Administration's implementation of the Affordable Care Act.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *https://waysandmeans.house.gov*, select "Hearings." Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Thursday, August 8, 2013**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721 or (202) 225–3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TDD/TTY in advance of the event (four business days notice is requested).

Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://www.waysandmeans.house.gov/*.

Chairman CAMP. Good morning. The hearing will come to order.

Just a few months ago in testimony before this Committee, Secretary Sebelius repeatedly told Congress and the American people that the Obama Administration was, and I am quoting, "on track to meet the October 1 deadline" for the new healthcare law.

However, over the past 2 months, the evidence shows just the opposite is true. In June, the Government Accountability Office released two reports which raised serious questions about whether the Center for Medicare and Medicaid Services, CMS, would be able to have federally run exchanges up and running by October 1, 2013, noting numerous reasons for their concerns.

In late July, the Treasury Inspector General for Tax Administration stated that testing for the exchanges would be difficult to complete before the October 1 date, and as a result, Americans will see significant delays and errors.

Right before the July 4th holiday, the Administration announced by blog post the delay of a major provision of the law, the employer mandate, giving employers relief, but doing nothing to aid hard-working Americans.

Three days later, Health and Human Services announced they would rely on self-verification when it comes to who gets subsidies, and just this week we learned that by delaying the mandate another $12 billion will be added to the deficit. It will also increase Federal spending by a total of $3 billion in new exchange subsidies because the delay will result in fewer employers offering coverage.

With these facts at hand, you will have to forgive me if I am skeptical of the claims that everything is "on track." It has been over 3 years since the law was passed, and in just 60 days the exchanges are due to be up and running, but we still do not have answers to many crucial questions, and worst yet, neither do the American people.

How is the average, hard-working taxpayer expected to navigate the Obamacare exchanges in just a few short months when the Administration has provided no information as to what the real cost will be or what their health insurance will look like?

To quote one of my Democratic colleagues, when is the White House going to actually get up and go?

As though the concerns and questions about implementation were not enough, almost daily we are reminded of the effects the law is having on the economy. Businesses are struggling to figure out how to comply with the law, how it will affect their business, and how and whether they will have to cut hours, wages or jobs in order to comply.

After the Administration announced the employer mandate delay, one small business owner testified before this Committee that "as a business owner, I worked on the 4th of July and I worried about it and I fielded calls from other franchisees asking what

this meant on the 4th of July." Our job creators and their employees deserve better.

The uncertainty is growing all over the country, and the American people need answers to the questions that millions of families and individuals are asking: why are my premiums skyrocketing? How can I expand my business, hire new workers, give employees a raise when I am being hit with all of these new mandates, regulations and red tape? Why am I losing the insurance I have and like?

And as if college students were not already struggling with dim job prospects upon graduation, the healthcare law is placing an even greater burden on the young. Central Michigan University, a university in Mount Pleasant, Michigan, just announced that they will have to limit college student work hours to 25 hours a week. As one student said, "Students use that money to pay for finance and school, and I think it is going to become increasingly harder for them to pay for school when we can only work 25 hours."

And as if Americans did not have reason enough to fear the IRS, we now know that it is in no position to implement the 47 new powers and authority given to it under the healthcare law. In fact, it is likely Americans will be at even greater risk of having their identity stolen or private taxpayer information leaked as a result of the law.

Even the Treasury's Inspector General less than 2 weeks ago stated, "The IRS will struggle to complete all required testing." The Inspector General is not confident about the IRS' ability to protect confidential taxpayer information or to prevent fraud, and neither am I.

This law is becoming increasingly unfair, unworkable, and untenable for Americans. With just 3 months left, patients, doctors, and hard-working taxpayers will have more questions than answers. I look forward to hearing an honest, straightforward assessment of the status of this law from our witnesses this morning.

And with that, I will yield to Mr. Levin for his opening statement.

Mr. LEVIN. Well, welcome to the two of you. We look forward to your testimony to dispel so much of what has been said.

Today the Committee is holding a hearing entitled "The Status of the Affordable Care Act Implementation" under the pretense, the pretense that House Republicans are interested in implementation of the landmark law. The truth is just the opposite. It is evidenced by what House Republicans plan to do in just 24 hours. They are going to push a bill through the House entitled "Keep the IRS off your Health Care Act." It would prohibit any funding, any funding for the IRS to implement the Affordable Care Act. I do not know how more negative, more destructive you can be than that.

House Republicans have made plain over the last 3 years that their sole interest, their sole interest is to disrupt the law's implementation. Tomorrow is what will be their last action, their last action before adjourning for a 5-week recess, a fitting signoff for a conference whose singular obsession with the health law's repeal over the last 3 years has come at the expense of so many other issues that are critically important to American families and the overall economy.

By the time they leave here Friday for summer recess, Republicans will have voted no fewer than 40 times to repeal Obamacare. The Republican mission is clear. Do not implement; destroy.

How else can Republicans explain why they have occupied so much time and wasted countless taxpayer dollars on 40 repeal votes that stand no chance of being enacted, while refusing to go to conference to enact a budget into law?

How else can they explain why they have leaned on outside organizations, including the National Football League, to discourage them from helping to educate Americans about current law, health insurance opportunities, and assistance that will be available through the marketplace?

And how else can they explain why they have worked so hard to discourage States from expanding their Medicaid programs even when fully federally funded, which will prevent millions of the most vulnerable Americans from gaining access to healthcare coverage?

At every turn, Republicans have chosen the path of disruption, and it is so vividly on display this week as they have sought to deny the Obama Administration funding needed to implement. How can you say you are interested in implementation when you try to destroy the funding?

If Republicans were truly interested in the Affordable Care Act's implementation, they would inform their constituents that a simple three-page application awaits single Americans purchasing insurance on the exchange, and that neither—and I emphasize this and I hope the witnesses will speak to this—and neither the IRS nor the Department of Health and Human Services will have access to medical records or other personal history.

Instead, what do we see? Scare tactics and other misguided efforts to convince constituents that applying for healthcare coverage will be time consuming and cumbersome.

We have known for quite a while the Republicans have no interest in ensuring that Americans understand what even Speaker Boehner himself has acknowledged, and that is ACA is the law of the land. Their only interest is to misinform, misconstrue and mislead the American public about ACA.

Even conservative Republican Senator Ted Cruz chastised the Republican effort in the House this week. He said, "There are a lot of politicians in Washington who love empty symbolic votes. The House has voted what, 39, 40, 41 times—I cannot keep track—to repeal Obamacare? Those votes were by and large empty, symbolic votes that had zero chance of passing."

The problem is, in a sense, they are not symbolic. They are part of a destructive mission.

So thank you to both of you for coming today, and all of us look forward to your testimony. We are sure that you will tell the facts and tell them emphatically.

I also want to ask unanimous consent that the following article from the American Enterprise Institute's Norm Ornstein be inserted in the record.

Chairman CAMP. Without objection.

[The submission of The Honorable Sander Levin follows:]

NationalJournal

WASHINGTON INSIDE OUT

The Unprecedented—and Contemptible—Attempts to Sabotage Obamacare

Doing everything possible to block the law's implementation is not treasonous—just sharply beneath any reasonable standards of elected officials.

by Norm Ornstein
July 24, 2013 | 7:30 p.m.

When Mike Lee pledges to try to shut down the government unless President Obama knuckles under and defunds Obamacare entirely, it is not news—it is par for the course for the take-no-prisoners extremist senator from Utah. When the Senate Republicans' No. 2 and No. 3 leaders, John Cornyn and John Thune, sign on to the blackmail plan, it is news—of the most depressing variety.

I am not the only one who has written about House and Senate Republicans' monomaniacal focus on sabotaging the implementation of Obamacare—Greg Sargent, Steve Benen, Jon Chait, Jon Bernstein, Ezra Klein, and many others have written powerful pieces. But it is now spinning out of control.

It is important to emphasize that this set of moves is simply unprecedented. The clear comparison is the Medicare prescription drug plan. When it passed Congress in 2003, Democrats had many reasons to be furious. The initial partnership between President Bush and Sen. Edward Kennedy had resulted in an admirably bipartisan bill—it passed the Senate with 74 votes. Republicans then pulled a bait and switch, taking out all of the provisions that Kennedy had put in to bring along Senate Democrats, jamming the resulting bill through the House in a three-hour late-night vote marathon that blatantly violated House rules and included something close to outright bribery on the House floor, and then passing the bill through the Senate with just 54 votes—while along the way excluding the duly elected conferees, Tom Daschle (the Democratic leader!) and Jay Rockefeller, from the conference committee deliberations.

The implementation of that bill was a huge challenge, and had many rocky moments. It required educating millions of seniors, most not computer-literate, about the often complicated choices they had to create or change their prescription coverage. Imagine if Democrats had gone all out to block or disrupt the implementation—using filibusters to deny funding, sending threatening letters to companies or outside interests who mobilized to educate Medicare recipients, putting on major campaigns to convince seniors that this was a plot to deny them Medicare, comparing it to the ill-fated Medicare reform plan that passed in 1989 and, after a revolt by seniors, was repealed the next year.

Almost certainly, Democrats could have tarnished one of George W. Bush's signature achievements, causing Republicans major heartburn in the 2004 presidential and congressional elections—and in the process hurting millions of Medicare recipients and their families. Instead, Democrats worked with Republicans, and with Mark McClellan, the Bush administration official in charge of implementation, to smooth out the process and make it work—and it has been a smashing success.

Contrast that with Obamacare. For three years, Republicans in the Senate refused to confirm anybody to head the Centers for Medicare and Medicaid Services, the post that McClellan had held in 2003-04—in order to damage the possibility of a smooth rollout of the health reform plan. Guerrilla efforts to cut off funding, dozens of votes to repeal, abusive comments by leaders, attempts to discourage states from participating in Medicaid expansion or crafting exchanges, threatening letters to associations that might publicize the availability of insurance on exchanges, and now a new set of threats—to have a government shutdown, or to refuse to raise the debt ceiling, unless the president agrees to stop all funding for implementation of the plan.

I remember being shocked when some congressional Democrats appeared to be rooting for the surge in troops in Iraq to fail—which would mean more casualties among Americans and Iraqis, but a huge embarrassment for Bush, and vindication of their skepticism. But of course they did not try to sabotage the surge by disrupting funding or interfering in the negotiations in Iraq with competing Shiite, Sunni, and Kurdish power centers. To do so would have been close to treasonous.

What is going on now to sabotage Obamacare is not treasonous—just sharply beneath any reasonable standards of elected officials with the fiduciary responsibility of governing. A good example is the letter Senate Republican Leaders Mitch McConnell and Cornyn sent to the NFL, demanding that it not cooperate with the Obama administration in a public-education campaign to tell their fans about what benefits would be available to them and how the plan would work—a letter that clearly implied deleterious consequences if the league went ahead anyhow. McConnell and Cornyn got their desired result. NFL Commissioner Roger Goodell quickly capitulated. (When I came to Washington in 1969-70, one of my great pleasures was meeting and getting to know Charles Goodell, the courageous Republican senator from New York who took on his own president on Vietnam and was quietly courageous on many other controversial issues. Roger Goodell is his son—although you would not know it from this craven action.)

When a law is enacted, representatives who opposed it have some choices (which are not mutually exclusive). They can try to repeal it, which is perfectly acceptable—unless it becomes an effort at grandstanding so overdone that it detracts from other basic responsibilities of governing. They can try to amend it to make it work better—not just perfectly acceptable but desirable, if the goal is to improve a cumbersome law to work better for the betterment of the society and its people. They can strive to make sure that the law does the most for Americans it is intended to serve, including their own constituents, while doing the least damage to the society and the economy. Or they can step aside and leave the burden of implementation to those who supported the law and got it enacted in the first place.

But to do everything possible to undercut and destroy its implementation—which in this case means finding ways to deny coverage to many who lack any health insurance; to keep millions who might be able to get better and cheaper coverage in the dark about their new options; to create disruption for the health providers who are trying to implement the law, including insurers, hospitals, and physicians; to threaten the even greater disruption via a government shutdown or breach of the debt limit in order to blackmail the president into abandoning the law; and to hope to benefit politically from all the resulting turmoil—is simply unacceptable, even contemptible. One might expect this

kind of behavior from a few grenade-throwing firebrands. That the effort is spearheaded by the Republican leaders of the House and Senate—even if Speaker John Boehner is motivated by fear of his caucus, and McConnell and Cornyn by fear of Kentucky and Texas Republican activists—takes one's breath away.

This article appears in the July 25, 2013, edition of National Journal Daily.

Chairman CAMP. Thank you, Mr. Levin.

Now it is my pleasure to welcome our two witnesses, both of whom bring a great deal of experience and hopefully a good amount of answers from the Administration. First, I would like to welcome Gary Cohen, the Deputy Administrator and Director for the Center for Consumer Information and Insurance Oversight, or CCIIO, at the Centers for Medicare & Medicaid Services; and second, we will hear from Daniel Werfel, the Principal Deputy Commissioner and Deputy Commissioner for Services and Enforcement at the IRS.

Again, thank you both for being with us today. The Committee has received each of your written statements, and they will be made part of the formal record. Each of you will be recognized for 5 minutes for your oral remarks, and then we will go to questions from the Members of the Committee.

And, Mr. Cohen, we will begin with you. You are recognized for 5 minutes.

STATEMENT OF GARY COHEN, J.D., DEPUTY ADMINISTRATOR AND DIRECTOR, CENTER FOR CONSUMER INFORMATION AND INSURANCE OVERSIGHT, CENTERS FOR MEDICARE & MEDICAID SERVICES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. COHEN. Thank you.

Good morning, Chairman Camp, Ranking Member Levin, and Members of the Committee.

Since the Affordable Care Act became law, CMS has been hard at work implementing the law's strong consumer protections that hold insurance companies more accountable, give consumers more coverage options, and improve the value of that coverage. And, of course, it is not just CMS that is hard at work implementing this law. Thousands of people all across the country are hard at work to make sure that Americans will receive the benefits of a transformed health insurance market.

They are employees of health plans who are designing new products that provide great value and security to consumers. They are the staff at State Insurance Departments who are reviewing those products to make sure that the rates charged are fair and reasonable. They are people and communities in every State all across the country who are preparing to help people enroll in coverage beginning in October.

Most Americans receive health insurance in connection with their jobs, and for those Americans, particularly those who work for larger employers, the system has worked well. But for the approximately 15 percent of Americans who do not have coverage through their employer or Medicare or Medicaid or CHIP or some other government program, the system has been broken. Before the Affordable Care Act, many young people and those with low incomes could not afford health insurance, leaving millions without coverage. Women could be charged 50 percent more than men for individual insurance policies.

Insurance was not affordable for many small employers because of the type of work that they do or because they have one worker with high medical costs.

Now Americans are benefitting from some of the Affordable Care Act's insurance reforms. More than three million additional young adults under the age of 26 are covered under their parents' plans. Nearly 18 million children with preexisting conditions now cannot be denied coverage.

New scrutiny of health insurance rate increases has saved Americans an estimated $1 billion on their health insurance premiums, and in 2014 being a woman will no longer be a preexisting condition.

Two months from today the marketplaces will provide a new way to shop for coverage for the uninsured, those with preexisting conditions, and individuals who currently buy coverage at high costs. On October 1st, Americans will begin shopping in the marketplaces, and they will be able to fill out one application to purchase private insurance, qualify for premium tax credits and reduced cost sharing or obtain Medicaid or CHIP coverage.

Many of the Americans who will shop in the marketplaces have never had health insurance. So the process of selecting, applying, and enrolling in health coverage will be unfamiliar to them. To reach these populations CMS is providing outreach, education, and enrollment assistance in a variety of ways.

In June, we re-launched a new consumer focused *Healthcare.gov* website and a 24-hour-a-day call center to help Americans prepare for open enrollment and ultimately to sign up for private health insurance. Since then, thousands of consumers have contacted us via live Web chat or our toll-free number, and *Healthcare.gov* already has had over 1 million visitors.

Consumers in the marketplaces will also be able to get in-person help from navigators, in-person assisters, trusted people connected to their community who can help them walk through the process of applying for coverage. They can also work with insurance agents and brokers, as is true in the market today, to select a qualified health plan.

These insurance plans in the marketplace will be affordable. In fact, we are already seeing evidence that the marketplaces are encouraging insurers to compete for consumers on price. For the thoroughly facilitated marketplaces, CMS has received qualified health plan submissions from more than 120 issuers. In 11 States, preliminary rates are lower than expected, 18 percent less than what the CBO estimated. In some cases rates are lower than the current premiums consumers are paying today.

Some States have released initial bids only to have insurers request to amend those bids to make them lower in order to be more competitive. This is good news for consumers, many of whom will be able to afford health insurance for the first time, and many consumers will be eligible for help with premiums and their out-of-pocket costs through advanced payment of premium tax credits and cost sharing reductions.

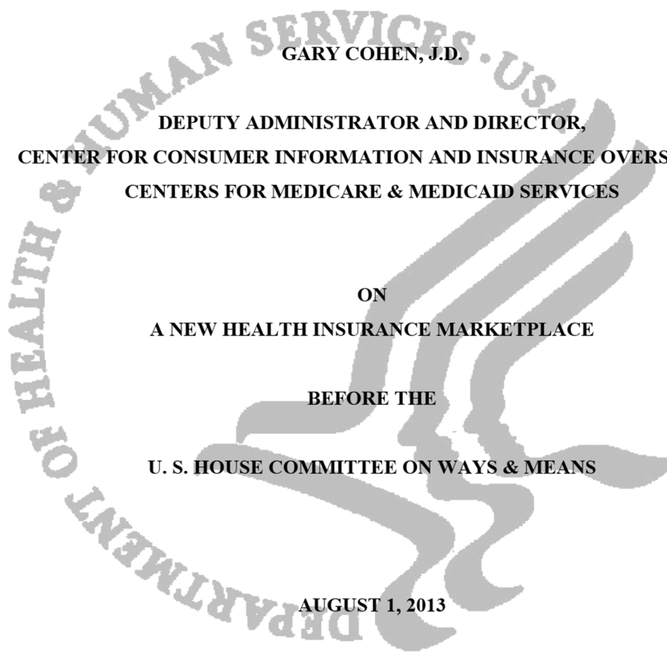
CMS has already finished developing most of the services required to support open enrollment, including the data hub, a routing tool that helps verify income, citizenship status, and other information consumers provide against existing data sources.

The marketplace will be up and running on October 1 when millions more Americans will have access to high quality, more afford-

able health coverage. By making coverage more affordable, improving the value of insurance coverage, and protecting consumers, CMS is paving the way for fairer, more transparent, and more accessible health insurance marketplaces.

I thank you for the opportunity to discuss CMS' important work to improve access to affordable health coverage for all Americans and look forward to your questions.

[The prepared statement of Mr. Cohen follows:]



STATEMENT OF

GARY COHEN, J.D.

DEPUTY ADMINISTRATOR AND DIRECTOR,
CENTER FOR CONSUMER INFORMATION AND INSURANCE OVERSIGHT,
CENTERS FOR MEDICARE & MEDICAID SERVICES

ON
A NEW HEALTH INSURANCE MARKETPLACE

BEFORE THE

U. S. HOUSE COMMITTEE ON WAYS & MEANS

AUGUST 1, 2013

U.S. House Committee on Ways & Means
A New Health Insurance Marketplace
August 1, 2013

Good morning, Chairman Camp, Ranking Member Levin, and members of the Committee. Thank you for the opportunity to speak about the work at the Centers for Medicare & Medicaid Services (CMS) in implementing the Affordable Care Act to put in place strong consumer protections, provide new coverage options, and give Americans additional tools to make informed choices about their health insurance. In March 2010, the Congress passed and President Obama signed into law the Affordable Care Act, putting in place comprehensive reforms to improve access to affordable health insurance for all Americans and protect consumers from abusive insurance company practices. Since the Affordable Care Act was signed into law, CMS has implemented strong consumer protections that hold insurance companies more accountable, give consumers more coverage options, and improve the value of that coverage.

Americans are benefitting from insurance reforms that have already gone into effect, such as allowing adult children up to age 26 to stay on their parents' insurance, restricting annual and eliminating lifetime dollar limits on essential health benefits, and prohibiting rescissions of insurance based on arbitrary mistakes in paperwork when someone gets sick. In 2014, these protections will be greatly expanded. Discrimination by insurance companies against individuals with pre-existing conditions will generally be banned for Americans of all ages, and consumers will have better access to coverage that is secure and affordable, even if they get sick. Beginning only two months from now on October 1, 2013, Americans may begin shopping for and enrolling in a wide variety of high-quality health insurance through the Health Insurance Marketplaces. Regardless of whether they are covered through their employer or plan to purchase their insurance through a Health Insurance Marketplace, in 2014, Americans will have access to higher-quality, more affordable health coverage.

Improving Access to Health Insurance: The Health Insurance Marketplaces

Millions of Americans currently buy coverage through the individual market, in many cases at a much higher cost than they would see as part of a larger pool. Additionally, over 40 million Americans under the age of 65 do not currently have health insurance, sometimes because the cost of insurance is too high or because they have been excluded from the private insurance market because of pre-existing conditions.

Establishing the Marketplaces

To give Americans a better way to shop for coverage, the Affordable Care Act directs states to establish State-based Marketplaces by January 1, 2014. In states electing not to establish and operate such a Marketplace, the Affordable Care Act directs the Federal Government to establish and operate a Marketplace in the state, referred to as a Federally-facilitated Marketplace. A State may also choose to partner with the Federal Government to operate a Marketplace. The Marketplace will provide consumers with access to health care coverage through private, qualified health plans, and consumers seeking financial assistance may qualify for insurance affordability programs.

Since the passage of the Affordable Care Act, CMS has been hard at work to design, build, and test secure systems that ensure Americans are able to enroll in affordable health care coverage through the Marketplace. CMS has already completed the majority of the development of the services required to support open enrollment beginning on October 1, 2013 for coverage starting January 1, 2014. CMS has been conducting systems tests since October 2012 and will complete end-to-end testing before open enrollment begins. CMS is also reviewing applications from issuers to offer qualified health plans in the Federally-facilitated Marketplaces; CMS has received qualified health plan submissions from more than 120 issuers.

When consumers visit the Marketplace through HealthCare.gov beginning on October 1, 2013, they will experience a new way to shop for health coverage. There, they can fill out one application to purchase coverage through a qualified health plan, to qualify for premium tax

credits and reduced cost sharing, or to apply for coverage through Medicaid or the Children's Health Insurance Program (CHIP).[1]

The online version of the application will be a dynamic experience that shortens the application process based on individuals' responses. The paper application for individuals is three pages, and the application for families is seven pages. These applications are much shorter than industry standards for health insurance applications today. The paper application was simplified and tailored to meet personal situations based on important feedback from consumer groups.[2] CMS is also developing a variety of information sources to support consumers as they fill out the streamlined application, including though HealthCare.gov and a toll-free call center, which is already up and running.

Making Health Insurance More Affordable

We are already seeing evidence that the Marketplace is encouraging plans to compete for consumers, resulting in affordable rates. While many states are still finalizing or finishing final review of their rates, some, like New York, California, Washington, Vermont, Oregon, and the District of Columbia, have released preliminary rates, and in some cases, independent experts say that these rates have been lower than expected.[3] In the eleven states for which data are available, the preliminary rate for the lowest cost silver plan in the individual market in 2014 is, on average, 18 percent less expensive than the estimate based on projections by the Congressional Budget Office.[4]

This is good news for consumers. In fact, some states have released initial bids only to have insurers request to amend their bid after competitors' publically-available bids come in at lower prices. In Washington, D.C., United Health Care and Aetna both reduced their small group rates,

[1] Application Elements: http://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing-Items/CMS-10440.html
[2] http://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-Releases/2013-Press-Releases-Items/2013-04-30.html
[3] http://www.zanebenefits.com/blog/bid/301885/Washington-Health-Insurance-Exchange-Rates-Lower-Than-Expected and http://articles.chicagotribune.com/2013-05-17/news/sns-rt-us-usa-healthcare-exchangesbre94g0sb-20130517_1_health-insurance-insurance-marketplaces-premiums
[4] ASPE Research Brief: Market Competition Works: Proposed Silver Premiums in the 2014 Individual and Small Group Markets Are Nearly 20% Lower than Expected

by 10 and 5 percent, respectively.[5] In Oregon, two plans requested to lower their rates by 15 percent or more.[6] Some rates submitted to California's Marketplace, Covered California, are as much as 29 percent below the 2013 average premiums for small employer plans in California's most populous regions.[7] New York State has said on average, the approved 2014 rates for even the highest levels of coverage of plans individual consumers can purchase on New York's Health Benefits Exchange (gold and platinum) represent a 53 percent reduction compared to last year's direct-pay individual rates.[8] Furthermore, states are using their rate review powers to review and adjust rates accordingly. In Oregon, the state has reduced rates for some plans by as much as 35 percent,[9] offering consumers an even better deal on their coverage for the 2014 plan year.

In addition to the more affordable rates resulting from competition among insurers, insurance affordability programs including premium tax credits and cost-sharing reductions will help many eligible individuals and families, significantly reducing the monthly premiums paid by consumers. Premium tax credits may be paid in advance and applied to the purchase of a qualified health plan through the Marketplace, enabling consumers to purchase insurance even if they lack the ability to pay up front. Cost-sharing reductions may also lower out-of-pocket payments for deductibles, coinsurance, and copayments for certain eligible individuals and families.

The Congressional Budget Office has projected that about 85 percent of Americans who obtain coverage through the Marketplaces will qualify for assistance to make their insurance more affordable, an estimated 20 million Americans by 2017.[10] A family's eligibility for these affordability programs depends on its family size, household income, and access to other types of health coverage.

[5] http://hbx.dc.gov/release/dc-health-link-applauds-aetna-decision-cut-rates
[6] http://www.oregonlive.com/health/index.ssf/2013/05/two_oregon_insurers_reconsider.html
[7] http://www.healthexchange.ca.gov/Documents/COVERED%20CA%20-%20Health%20Plans%20PRESS%20RELEASE%20FINAL%205%2023%2013.pdf
[8] http://www.governor.ny.gov/press/07172013-health-benefit-exchange
[9] http://www.oregonlive.com/health/index.ssf/2013/06/oregon_slashes_2014_health_ins.html
[10] http://www.cbo.gov/sites/default/files/cbofiles/attachments/44190_EffectsAffordableCareActHealthInsuranceCoverage_2.pdf

Spreading the Word

Ensuring that consumers and businesses take advantage of these reforms, the Marketplace provides user-friendly tools to learn about benefits that the Marketplace and other Affordable Care Act reforms have to offer. This is a significant undertaking. We know quite a bit about the uninsured Americans we need to reach—many have never had health insurance, so the transaction of selecting, applying, and enrolling in health coverage will be unfamiliar to them. According to a CMS analysis of the 2011 American Community Survey,[11] 20 percent of uninsured adults have not completed high school. To effectively reach these populations about their new health insurance options, information should be provided by trusted people connected to the community in an appropriate manner.

For that reason, the Affordable Care Act authorizes, and CMS is implementing, a variety of ways to provide outreach, education, and enrollment assistance. We are leveraging forms of assistance that exist in the insurance market today, as well as new forms of assistance provided by the Affordable Care Act to help educate Americans about the options for enrolling in affordable, high quality coverage beginning on October 1, 2013. In June of this year, CMS re-launched a new consumer-focused HealthCare.gov website and the 24-hours-a-day consumer call center to help Americans prepare for open enrollment and ultimately sign up for private health insurance. The new tools will help Americans understand their choices and select the coverage that best suits their needs when open enrollment in the Marketplace begins October 1.[12] Until the start of open enrollment, the Marketplace call center will provide educational information, and beginning October 1, 2013, it will assist consumers with application completion and plan selection. I am pleased to report that we have had thousands of consumers contact us via live web chat or our toll free number and over 1 million visitors to HealthCare.gov since its re-launch in June. We are also seeing states begin their marketing efforts to help spread the word on the importance of insurance, especially for young adults. States are tailoring their message to specific audiences and the populations of their states. Recent news reports have highlighted the unique ways Oregon, Kentucky, Colorado and Connecticut plan to enroll consumers in their

[11] Data set available: https://data.cms.gov/dataset/The-Percent-of-Estimated-Eligible-Uninsured-People/9hxb-n5xb
[12] http://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-Releases/2013-Press-Releases-Items/2013-06-24.html

Marketplaces.[13] As with the roll-out of expanded healthcare coverage options, such as Medicare Part D and CHIP, CMS expects that other Federal agency partners and members of the private sector will be involved in efforts to reach, engage, and assist potential enrollees.

In addition to outreach and education through HealthCare.gov, our toll free number, and state outreach efforts, consumers in the Marketplace will be able to get in-person help from Navigators and similar in-person assisters, who will provide information to consumers about health insurance, the Marketplace, qualified health plans, and public programs including Medicaid and CHIP. Last month, CMS finalized a rule outlining the standards for Navigators, in-person assisters, and certified application counselors in the Federally-facilitated and State Partnership Marketplace. Navigators will provide accurate and impartial assistance to consumers shopping for coverage in the new Marketplace, including consumers who are not familiar with health insurance, have limited English proficiency, or are living with a disability. To be selected as Navigators, organizations must submit grant applications and undergo a thorough Federal review process. All Navigators must complete a Federal training program and pass a test to ensure they are prepared to assist consumers. State-based Marketplaces have the option of using materials developed by the Federally-facilitated Marketplace or developing their own. Grant awards for Navigators in states with Federally-facilitated and State Partnership Marketplace will be awarded on August 15, 2013. Additionally, where permitted by the state,[14] licensed agents and brokers, as well as online brokers and insurers, may help consumers and employers enroll in a qualified health plan through the Marketplace.

CMS is building on the lessons we learned through the efforts of earlier roll-outs of expanded health care coverage programs, such as the CHIP and the Medicare Part D drug benefit as we work to educate Americans about the Marketplace. With 60 days remaining until the beginning of open enrollment, CMS is working to provide consumers with numerous avenues to get help selecting a qualified health plan through the Marketplace.

[13] http://capsules.kaiserhealthnews.org/index.php/2013/07/state-insurance-exchanges-launching-tv-ads-to-encourage-enrollment/
[14] Per 45 CFR 155.220

Reforming the Insurance System

In addition to building the Health Insurance Marketplaces, over the past three years, the Center for Consumer Information and Insurance Oversight (CCIIO) has also been hard at work implementing the policies and protections of the Affordable Care Act. Before the Affordable Care Act, health insurance premiums had risen rapidly, straining the pocketbooks of Americans for more than a decade. Between 1999 and 2012, the cost of coverage for a family rose 172 percent.[15] These increases forced families and employers to spend more money, often for less coverage. Before the Affordable Care Act, women could be charged more for individual insurance policies simply because of their gender. For example, a 22-year-old woman could be charged 50 percent more than a 22 year-old man. Many young people and people with low incomes often could not afford health insurance, leaving millions of Americans without coverage. Before the Affordable Care Act, premium rates charged to older Americans could be more than five times the rate for younger Americans. Some of these problems have already been addressed; others will be addressed through policies that will go into effect soon, starting in 2014.

What We Have Already Achieved

Since the Affordable Care Act was signed into law, CMS has implemented strong consumer protections that increase insurance company accountability, give consumers more coverage options, and improve the value of that coverage. Today, more than 3.1 million additional young adults under the age of 26 are covered under their parents' plans. The families of 17.6 million children with pre-existing conditions can rest more easily, because their insurance companies cannot deny their children coverage based on pre-existing conditions. Nearly 71 million Americans now have expanded access to preventive services at no additional cost through their private insurance plans, and 27 million women now have guaranteed access to additional preventive services without cost-sharing.[16]

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[15] Kaiser Family Foundation. Employer Health Benefits 2012 Annual Survey http://kaiserfamilyfoundation.files.wordpress.com/2013/03/8345-employer-health-benefits-annual-survey-full-report-0912.pdf

[16] http://aspe.hhs.gov/health/reports/2013/PreventiveServices/ib_prevention.cfm

The Affordable Care Act has brought an unprecedented level of scrutiny and transparency to health insurance rate increases by requiring an insurance company to justify a rate increase of 10 percent or more, shedding light on arbitrary or unnecessary costs. Since the rule on rate increases was implemented,[17] the number of requests for insurance premium increases of 10 percent or more plummeted from 75 percent to an estimated 14 percent. The average premium increase for all rates in 2012 was 30 percent below what it was in 2010. Available data suggest that this slowdown in rate increases is continuing into 2013.[18] Americans have saved an estimated $1 billion on their health insurance premiums thanks to rate review.

The rate review program works in conjunction with the 80/20 rule (or the Medical Loss Ratio rule),[19] which generally requires insurance companies in the individual and small group markets to spend at least 80 percent of premiums on health care and quality improvement activities and no more than 20 percent on administrative costs (such as executive salaries and marketing) and profits. In the large group employer market (more than 50 employees), insurers must spend 85 percent of premium dollars on medical care and quality improvement activities. If they fail to do so, they must provide rebates to their customers. The Medical Loss Ratio rule improves value, increases transparency and accountability, and promotes competition among insurers. In 2012, 77.8 million consumers saved an estimated $3.4 billion up front on their premiums as more insurance companies operated more efficiently and spent less on overhead. And this year, 8.5 million consumers can expect a total of $500 million in rebates, with an average rebate of around $100 per family nationwide from insurance companies that did not meet the 80/20 standard in 2012. This is in addition to the $1.1 billion in rebates based on 2011 premiums, which benefited approximately 13 million Americans.[20]

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[17] Health Insurance Rate Review – Final Rule on Rate Increase Disclosure and Review: http://www.gpo.gov/fdsys/pkg/FR-2011-05-23/pdf/2011-12631.pdf

[18] ASPE Research Brief: Health Insurance Premium Increases in the Individual Market Since the Passage of the Affordable Care Act http://aspe.hhs.gov/health/reports/2013/rateIncreaseIndvMkt/rb.cfm

[19] MLR Final Rule: https://www.federalregister.gov/articles/2012/05/16/2012-11753/medical-loss-ratio-requirements-under-the-patient-protection-and-affordable-care-act

[20] http://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/2012-medical-loss-ratio-report.pdf

Looking Ahead to 2014

We are proud of the accomplishments of the last three years, and we look forward to even more promising reforms of the Affordable Care Act that are set to start in 2014. Soon, a variety of consumer protections will take effect that will further strengthen the Health Insurance Marketplace, ending many of the insurance industry practices that make health care coverage too expensive or unavailable for many consumers.

In 2014, new rules will help make health insurance more affordable for more Americans.[21] Most health insurance companies will be prohibited from charging higher premiums to applicants because of their current or past health problems. Most insurance companies will no longer be able to charge women more than men based solely on their gender. Most insurers will be limited in how much more they can charge older Americans than young Americans, so insurance becomes more affordable for most Americans.

In addition to making coverage more affordable, beginning in 2014, new protections will help Americans of all ages maintain health insurance coverage, regardless of their health status. With limited exceptions, all non-grandfathered plans and policies in the individual and group markets will be required to enroll individuals, regardless of health status, age, gender, or other factors and will be prohibited from refusing to renew coverage because an individual or employee becomes sick. Plans will also be prohibited from putting annual dollar limits on benefits.

Soon, consumers will be able to select an insurance plan with confidence that it will cover key health care services when they need them. All non-grandfathered plans in the individual and small group markets will cover essential health benefits,[22] which include items and services in ten statutory benefit categories, such as ambulatory patient services (including doctors' visits), hospitalization, prescription drugs, and maternity and newborn care. These benefits will be equal in scope to a typical employer health plan. To this end, the essential health benefits will be defined in each state by reference to a benchmark plan.

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[21] Health Insurance Market Rules: http://www.gpo.gov/fdsys/pkg/FR-2013-02-27/pdf/2013-04335.pdf
[22] Essential Health Benefits: http://www.gpo.gov/fdsys/pkg/FR-2012-11-26/html/2012-28362.htm

Beginning in 2014, non-grandfathered health plans in the individual and small group markets also must meet certain actuarial values: 60 percent for a bronze plan, 70 percent for a silver plan, 80 percent for a gold plan, and 90 percent for a platinum plan. Actuarial value means the percentage paid by a health plan of the total allowed costs of benefits. For example, if a plan has an actuarial value of 70 percent, the average consumer would be responsible for 30 percent of the costs of the essential health benefits the plan covers. These tiers will allow consumers to compare plans with similar levels of coverage, which, along with comparing premiums, provider participation, and other factors, will help consumers make more informed decisions.

Insurance market reforms will also help large employers. Already, employers are reporting slower growth in health insurance premiums.[23] The Congressional Budget Office analyzed the net impact on premiums by market and found that for the large group employer market, the Affordable Care Act will result in a 0 to 3 percent premium reduction.[24] Employers (and their premium-paying employees) may also accrue additional gains as uncompensated care decreases and population health improves. By combining insurance market reforms, new efficiencies created by the Marketplaces, and programs such as reinsurance that will help stabilize premiums in the new Marketplaces, the Affordable Care Act reduces uncompensated care, increases competition among health insurance issuers, and reduces the hidden cost of uncompensated care for all premium payers.

Conclusion

By making coverage more affordable, improving the value of insurance coverage, and protecting consumers from the worst health insurance industry abuses, CMS is paving the way for a fairer, more transparent, more accessible health system. Over the last three and a half years, CMS and our Federal partners have been hard at work drafting policy, implementing consumer protections, working with stakeholders, and building IT systems that will enable Americans to shop and apply for insurance coverage starting just two months from now. As we move into the final phase of implementation, CMS stands ready to work with you and your constituents to answer

[23] http://kaiserfamilyfoundation.files.wordpress.com/2013/03/8345-employer-health-benefits-annual-survey-full-report-0912.pdf
[24] http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/107xx/doc10781/11-30-premiums.pdf

questions about this important law. Thank you for the opportunity to discuss CMS' important work to improve access to affordable health coverage for all Americans.

Chairman CAMP. Thank you, Mr. Cohen.
Mr. Werfel, you are recognized for 5 minutes.

STATEMENT OF DANIEL WERFEL, PRINCIPAL DEPUTY COMMISSIONER AND DEPUTY COMMISSIONER FOR SERVICES AND ENFORCEMENT, INTERNAL REVENUE SERVICE

Mr. WERFEL. Chairman Camp, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to appear before you today to discuss the work the IRS has been doing to fulfill our responsibilities under the Affordable Care Act.

The IRS is charged with implementing the tax related provisions of the ACA. Our most substantial implementation effort in this regard involves the delivery of the premium tax credits that will help millions of American families afford health insurance starting in 2014 when the new health insurance marketplace, also known as Affordable Insurance Exchanges, will begin operating.

The Department of Health and Human Services is the lead agency on defining the structure and operations of the marketplace. Open enrollment for insurance purchased through the marketplace will start October 1, 2013, with coverage beginning as soon as January 1, 2014.

When an individual seeks to purchase insurance through a marketplace and seeks financial assistance, the marketplace must determine what assistance, if any, the applicant may qualify for, such as Medicaid or the premium tax credit. To make that determination, the marketplace will request Federal taxpayer data from us, and we will provide for each applicant some limited tax data from the applicant's most recently filed Federal income tax return.

It is important to understand exactly how this information will be transferred from the IRS to the marketplace. The ACA designates HHS as the conduit for information being shared with the marketplace. The taxpayer data supplied by the IRS will be transmitted over secure encrypted channels to the HHS Federal Data Services Hub, which was developed to facilitate these data transfers.

This data hub will not be storing taxpayer information, but merely routing that information to authorized users. At no time is the tax data to be displayed to anyone outside of the marketplace itself.

The IRS also is responsible for providing a computational service if the marketplace determines that the applicant is eligible for and interested in advanced payments of the premium tax credit, which are sent to the individual's insurance company. Without identifying the applicant, the marketplace will submit a few data elements, including income and family size, for the IRS computational service through the HHS data hub and receive back a single figure. That figure represents the maximum advanced premium tax credit resulting from those data inputs. Nothing in this computational process identifies individuals or contains tax data.

While the focus for October 2013 is on preparing for the marketplaces to begin operating, the IRS has also been preparing for the 2015 filing season. Beginning with 2014 tax returns filed in 2015, eligible individuals will be able to claim the credit on their returns and will be required to reconcile any advances already paid to their

insurance company on their behalf. In regard to these taxpayers, the IRS must balance the need to promptly process accurate returns with the need to identify and stop any erroneous claims for the credit.

To facilitate this process, the marketplaces will be sending to the IRS enrollment information for individuals purchasing coverage through those marketplaces. This transactional information will be transmitted over secure encrypted channels. It will include the fact and cost of coverage and information on any advance payments of the premium tax credit made during the coverage year to the taxpayer's insurance company on their behalf.

While certain identifying information, such as name and Social Security number, is required to support the processing of returns, no personal health information will ever be provided. The IRS will reconcile the information with what the individuals report on their tax returns so that the IRS can verify whether they received the proper amount of credit, are owed more, or must repay any excess advance payments.

This information will help the IRS speed processing of returns and spot erroneous credit claims. It is important to note that the IRS already routinely receives third party information that helps it verify the accuracy of tax returns, and we have longstanding policies in place related to the safety and privacy of this information. We will use this experience to guide us in making sure that any ACA related taxpayer information we receive is properly safeguarded.

In addition to the data, tools and systems that the IRS uses to battle tax fraud of all kinds, we have some particular tools for enforcing proper payments of the premium tax credit. As mentioned above, the marketplaces will be providing the IRS with key 2014 transactional data prior to the beginning of the 2015 tax filing season. Having this pre-positioned enrollment data will allow the IRS to more effectively detect erroneous claims for the credit.

Chairman Camp, Ranking Member Levin, that concludes my statement. I would be happy to take your questions.

[The prepared statement of Mr. Werfel follows:]

WRITTEN TESTIMONY OF
DANIEL WERFEL
PRINCIPAL DEPUTY COMMISSIONER
INTERNAL REVENUE SERVICE
BEFORE THE
HOUSE WAYS AND MEANS COMMITTEE
IRS IMPLEMENTATION OF TAX-RELATED PROVISIONS IN THE AFFORDABLE CARE ACT
ON
AUGUST 1, 2013

Introduction

Chairman Camp, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to appear before you today to discuss the work the IRS has been doing to fulfill our responsibilities under the Affordable Care Act (ACA).

The IRS is charged with implementing the tax-related provisions of the ACA. Our most substantial implementation effort in this regard involves the delivery of premium tax credits that will help millions of American families afford health insurance starting in 2014, when the new Health Insurance Marketplace, also known as the Affordable Insurance Exchanges, will begin operating. The Department of Health and Human Services (HHS) is the lead agency on defining the structure and operations of the Marketplace. Open enrollment for insurance purchased through the Marketplace will start October 1, 2013, with coverage beginning as soon as January 1, 2014.

Starting in 2014, individuals who do not have access to affordable employer-sponsored insurance or other minimum essential coverage may be eligible to receive advance premium tax credits, paid directly to the insurer, for private insurance that they purchase through the Marketplace. Treasury and the IRS have provided guidance on how these tax credits work and can help reduce the cost of this coverage directly for the consumer, and HHS has provided guidance on how to apply for advance payments at the Marketplace. Under the ACA, the Marketplace will request tax return information from the IRS to determine eligibility for financial assistance such as premium tax credits. IRS staff have been working closely with HHS and the states on developing secure and efficient systems for the flow of this information.

Taxpayers who qualify for advance payments of the credit will reconcile these payments on their 2014 tax returns filed in 2015. Upon filing tax returns, these taxpayers will know the actual credit they qualify for based on their 2014 income. If the actual credit is larger than the sum of advance payments a taxpayer receives during the year, the taxpayer will be entitled to additional credit. If the actual credit is smaller than the sum of the advance payments, the taxpayer will owe the difference, subject to certain repayment caps included in the ACA, as amended.

Because the provisions mentioned above are substantial and require advance preparation, the IRS has established enterprise-wide governance and planning processes, coordinating efforts among

our business operations, information technology function, legal counsel and our Office of Safeguards. These planning efforts have had the benefit of independent reviews by both the Government Accountability Office and the Treasury Inspector General for Tax Administration.

Our budget requests in recent years reflect the need to invest in information technology (IT) systems to generally update our tax systems as well as administer the premium tax credit and other tax law provisions of the ACA. Of the funding requested in our FY 2012 and FY 2013 budgets related to ACA tax law implementation, 82 percent and 92 percent, respectively, was in our Operations Support account, which funds our IT and operations investments; almost 70 percent of the 2014 budget we requested for ACA tax law implementation would be used to continue the necessary IT development as the ACA is rolled out.

Supporting the Health Insurance Marketplaces

Let me describe for you in more detail the supporting role that the IRS will play in the operation of the Health Insurance Marketplaces, or Exchanges.

When an individual seeks to purchase insurance through a Marketplace and seeks financial assistance, the Marketplace must determine what assistance, if any, the applicant may qualify for, such as Medicaid or the premium tax credit. To make that determination, the Marketplace will request federal taxpayer data. Upon request from the Marketplace, the IRS will provide, for each applicant, limited tax data[1] from the applicant's most recently filed federal income tax return. State Medicaid and the Children's Health Insurance Program agencies may also choose to request the tax data for their eligibility determinations.

It is important to understand exactly how this information will be transferred from the IRS to the Marketplace. The ACA designates the Department of Health and Human Services (HHS) as the conduit for information being shared with the Marketplace. The taxpayer data supplied by the IRS will be transmitted over secure, encrypted channels to the HHS Federal Data Services Hub, which was developed to facilitate these data transfers. The Federal Data Services Hub will not be storing taxpayer information, but merely routing that information to authorized users. The Marketplace, which requests and receives each data packet through the HHS data hub, will use the available tax data, together with data from other third parties and the applicant, to determine the best prediction of the applicant's 2014 income to be used to compute the assistance, if any, the applicant qualifies for. At no time is the tax data to be displayed to anyone outside of the Marketplace.

It is important to note that our ability to share tax return data with the Marketplace, via the hub, is being developed through new systems and services that our IT division has been creating. We are on target to have these new systems ready for deployment when open enrollment in the

[1] The Marketplace request contains, for each person on the application, name, SSN, and relationship to the tax filer. This enables IRS to correctly locate and associate the limited relevant data from return records. The IRS returns information authorized under section 6103(l)(21), including limited income data from the face of the return, family size and filing status. The Marketplace will use this tax information, together with data from other sources, to make its determination about predicted 2014 income and eligibility for various programs.

Marketplace begins on October 1. Our IT project teams completed systems development, as well as interagency testing with HHS and the Center for Medicare and Medicaid Services (CMS), in June. Performance testing of these systems will continue through the summer.

Separate from the process of providing limited tax return data to the Marketplace, the IRS also is responsible for providing a computational service if the Marketplace determines that the applicant is eligible for, and interested in, advance payments of the premium tax credit. After the Marketplace has determined a predicted 2014 income figure, and without identifying the applicant, the Marketplace will submit a few data elements – such as a Marketplace-determined income figure and family size, and the Marketplace benchmark plan premium – for the IRS' computational service through the HHS data hub, and receive back a single figure: the maximum advance premium tax credit resulting from those data inputs. Nothing in this computational process identifies individuals or contains tax data. The IRS merely provides a mathematical service, which supports consistent math at enrollment and on the later tax return, regardless of whether the inputs change.

Enforcing Proper Payments of the Premium Tax Credit

While the focus for October 2013 is on preparing for the Marketplaces to begin operating, the IRS has also been preparing for the 2015 tax filing season. Beginning with 2014 tax returns filed in 2015, individuals will be eligible to claim the credit and will be required to reconcile any advances already paid to their insurance company on their behalf. The IRS will be required to promptly process accurate returns while also efficiently identifying and stopping any erroneous claims for the credit.

To facilitate this process, the Marketplaces will be transmitting over secure, encrypted channels to the IRS enrollment information for individuals purchasing coverage through those Marketplaces. This transactional information will include the fact and cost of coverage, and information on any advance payments of the premium tax credit made during the coverage year to the taxpayer's insurance company on their behalf. While certain identifying information, such as name and SSN, is required to support the tax return processing, no personal health information is ever provided. The IRS will reconcile the information with what the individuals report on their tax returns so that the IRS can verify whether they received the proper amount of credit, are owed more, or must repay any excess advance payments. This information will help the IRS speed processing of returns and spot erroneous claims of the credit.

It is important to note that the IRS already routinely receives third-party information that helps it verify the accuracy of tax returns, and we have longstanding policies in place related to the safety and privacy of this information. We will use this experience to guide us in making sure that any taxpayer information we receive is properly safeguarded.

In addition to the data, tools and systems that the IRS uses to combat tax fraud of all kinds, we have some particular tools for enforcing proper payments of the premium tax credit. As mentioned above, the Marketplaces will be providing the IRS with key 2014 transactional data prior to the beginning of the 2015 tax filing season. Having this pre-positioned transactional data will allow the IRS to efficiently sort for many of the basic qualification and computational

elements of the premium tax credit. While the IRS does not share publicly all of the tools and techniques used for detecting non-compliance, it is important to note that as the tax returns are processed, for example, the IRS will be able to determine whether:

- There is a record of anyone on the return having enrolled at a Marketplace (a basic requirement to claim the credit);
- The return passes a basic check against a Marketplace record, but does not acknowledge that advance payments have already been paid directly to the insurance company and need to be netted against the credit calculation before a refund can be due; and
- The return reports inaccurately high premium costs or inaccurately low advance payments as compared to the Marketplace data.

Of course, additional eligibility and accuracy issues will also be checked using other ACA-specific information and by applying the same new and enhanced techniques we apply to all returns to detect non-compliance.

Protecting Safety and Privacy of Data

Let me now turn to the steps that the IRS is taking to ensure the safety and security of the data being shared under the ACA. The information sharing to be done under the ACA comes against the backdrop of very strong taxpayer confidentiality protections as specified in the tax laws. In general, section 6103 of the Internal Revenue Code prohibits the IRS from sharing tax return data with anyone outside the agency.

Over the years, however, Congress has created a series of narrow exceptions to the restrictions in section 6103. Those exceptions allow the IRS to share taxpayer information for specific purposes and with proper safeguards. For example, the IRS is permitted to disclose tax return information to other federal agencies and state tax authorities to facilitate efficient tax administration. The ACA provides a specific exception to section 6103 for information sharing activities that the IRS will perform under the statute.

The IRS is already well positioned to provide the needed safeguards, given the longstanding experience it has in overseeing the transmission of data to federal and state agencies under previously enacted exceptions to section 6103. Agencies receiving return information from the IRS must meet significant safeguarding requirements, including strict recordkeeping and proper handling, storage and disposal of tax records.

The IRS Office of Safeguards has the responsibility for monitoring the nearly 300 federal and state agencies that currently are permitted to receive tax return data to ensure they are complying with all requirements. IRS Publication 1075, *Tax Information Security Guidelines for Federal, States and Local Agencies,* provides detailed background and procedures for data recipients.

In regard to upcoming data sharing under the ACA, the IRS has been collaborating with the other federal and state agencies involved in ACA implementation on the various processes and written agreements that are necessary for safeguarding personal information, including tax return data. We meet on a regular basis with every state and federal government entity that might receive

taxpayer data, to provide them with outreach and education, one-on-one consultations, and technical assistance on IRS data security requirements.

Among our collaborative efforts, the IRS and HHS have entered into a Computer Matching Agreement to meet the requirements of the Computer Matching and Privacy Protection Act. This agreement details the operations of the data exchange, as well as various disclosure restrictions and other requirements. The IRS and CMS have entered into an Information Exchange Agreement covering the use of HHS systems by the Marketplaces to transmit monthly and annual information reports to the IRS, and also covering use of the Premium Tax Credit Computation Engine by the Marketplaces. The IRS and CMS also have an Interconnection Security Agreement covering the security of the connection between the agencies. Because HHS is the conduit for the tax return information, it will in turn enter into similar agreements with all entities receiving the return information.

The IRS holds the Marketplaces and state agencies seeking tax return data under the ACA to significant data protection requirements. Before one of these entities can obtain tax return information, it must submit a Safeguard Procedures Report (SPR) to the IRS, and the IRS must approve it. This report details the steps that the entity has established or plans to take to protect the confidentiality of the tax records it will be handling. If any entities fail to establish adequate safeguards, taxpayer data will be withheld from them. Going forward, we will work with HHS and all other entities involved to ensure adequate data safeguards are in place, and we will provide ongoing oversight to ensure that all entities involved in data sharing continue to meet the safeguarding requirements.

Conclusion

Chairman Camp, Ranking Member Levin, and members of the Committee, thank you again for the opportunity to testify on the steps we are taking to support the new Marketplace system, to protect and safeguard federal tax information, and to leverage new anti-fraud capabilities associated with the premium tax credit. We are taking all necessary steps to ensure that tax return information that flows to the Marketplace and state agencies carrying out the provisions of the ACA is secure and properly safeguarded. This concludes my testimony. I would be happy to take your questions.

Chairman CAMP. Well, thank you both very much.

Mr. Werfel, as you know, the Committee has long been concerned about the integrity of the use of taxpayer dollars and the IRS' ability to control abuse of those dollars. In fact, one of the Treasury's Inspector Generals, and that is obviously the independent, nonpartisan watchdog of the IRS and the Treasury, has previously reported massive amounts of improper payments, and those are payments under the IRS' authority.

In fact, a report last year by this nonpartisan Inspector General estimated the IRS will issue over $21 billion in fraudulent tax refunds over a 5-year period, and more recently the Inspector General found that the IRS allowed $46 million in fraudulent tax refunds to go to a single mailing address in Georgia.

Now, this comes on the heels of a 2010 Inspector General report—so this is not a new development—that reported the IRS would issue $55 to $65 billion in improper EITC payments before it could enact efforts to stop this fraud.

These are issues I have raised with your predecessor for a number of years as well, and obviously these facts are very troubling.

Now, that same nonpartisan Inspector General testified, "The IRS' existing fraud detection systems may not be capable of identifying ACA or healthcare refund or fraud schemes prior to the issuance of the tax refunds." Obviously, this is completely unacceptable, and I guess I would ask: How do you expect the American people to believe that their hard-earned tax dollars are going to be protected, and what are you doing about these longstanding, ongoing problems and obviously the potential in the future, given the Inspector General's testimony?

Mr. WERFEL. Thank you for the question. I have a few responses.

First, I think we could have a separate discussion about fraud and improper payments and other parts of the tax code like the earned income tax credit, but let me spend some time on the Affordable Care Act.

There are some differences with the way the Affordable Care Act and the IRS footprint works from EITC that I think is important to point out because it actually is helpful in reducing the incidence of fraud, and there are two key things I want to share with you.

First, when an individual comes in to get premium tax credit assistance, so when they're getting their tax credit under the ACA, no funds are actually shared directly with the taxpayer. That money goes to the insurance company. So that individual is never receiving the money. They are getting an economic benefit, access to insurance and less expensive premiums, but different from EITC where they are actually getting the money, here——

Chairman CAMP. But whether they qualify for the benefit will be up to them, right? Because now HHS has said they will self-authenticate or self-verify. They will say whether they qualify, correct?

Mr. WERFEL. Well, as I mentioned in my opening remarks, we provide HHS and then they provide the marketplace taxpayer information about those individuals and their income level. So that——

Chairman CAMP. But at the time——

Mr. WERFEL [continuing]. Information will help validate what their income may be in the future based on having that historical information of what their taxpayer data says now.

Chairman CAMP. But I am correct on the self-authentication or self-verify, that taxpayers will determine whether they qualify.

Mr. WERFEL. I will leave that question for Mr. Cohen, but let me add one——

Chairman CAMP. Mr. Cohen, am I correct on that?

Mr. COHEN. No. We are going to verify the income of every person who applies for subsidies through the marketplaces, and we are going to do that through——

Chairman CAMP. But wait. Just stop for a second. HHS announced that there is going to be a self-verification system. Did they not make that announcement?

Mr. COHEN. We are actually going to be coming out with some additional guidance today, I think, or tomorrow.

Chairman CAMP. Okay. But they did make that announcement.

Mr. COHEN. We said that we were going to be doing a sampling, and we are now going to be announcing that we are going to be sampling 100 percent. We are going to be requesting documentation——

Chairman CAMP. So there is new information that——

Mr. COHEN. There is new information, correct.

Chairman CAMP. And can you elaborate on that for us?

Mr. COHEN. I can. I can. So the way it is going to work is people say, "This is how much my income was or is going to be," and what the person puts on the application is checked against the available data sources from IRS, from Social Security in the event that they have disability income, and from Equifax, which is a well known private company.

Chairman CAMP. But you are not going to have their current taxpayer information until after they file.

Mr. COHEN. No, this is so they will be looking at the prior year's tax return.

Chairman CAMP. Yes.

Mr. COHEN. If we cannot match, if there is not a match, if we cannot verify, then we are going to ask for further information and documentation, such as pay stubs, from every applicant.

Chairman CAMP. All right. And I want you to continue.

Mr. WERFEL. There was just one other thing I wanted to add. In addition to the fact that the taxpayer itself does not receive funds, just receives the economic benefit because the money goes directly to the insurance company, the other point is that the IRS——

Chairman CAMP. But they do get the subsidy.

Mr. WERFEL. They get a subsidy, but they never get cash in hand. They get a cheaper——

Chairman CAMP. No, but in terms of the American taxpayer being protected from improper or fraudulent subsidies, that still is an outstanding issue. Whether the individual gets a cash payment or not, there still is a——

Mr. WERFEL. I completely agree. If there is a mistake there——

Chairman CAMP. Thank you.

Mr. WERFEL [continuing]. It is a loss to the Treasury, but here is another——

Chairman CAMP. Which is the American people.

Mr. WERFEL. Right, absolutely. I agree, but if I can make one more point, which is the IRS will have a report from the exchange, and that report will have detailed information that will let us validate does this individual have a relationship with the exchange. We will know whether they have made their premium payments. We will have more information to reconcile that individual's tax return than we have in EITC and other cases. So there are some mitigating elements that will help us reduce the incidence of potential erroneous payments in this case.

Chairman CAMP. Will the IRS enforce the mandate that businesses offer acceptable coverage next year?

Mr. WERFEL. So here is how that is going to work. I think what you are referring to is that we in future years after the 2015 filing season will rely on an employer report, and that employer report will not be provided in this first year.

Chairman CAMP. But next year, yes or no?

Mr. WERFEL. Next year we are working on solutions to look at other alternative reports and information to help validate the employer offer, and that is under development right now with the employer community, with the business community in light of the fact that the employer report is not going to occur until filing season 2016. We are working with employers now to look at alternative ways to validate their offer of coverage.

Chairman CAMP. Well, did I not read the blog post properly that the employer mandate was delayed?

Mr. WERFEL. Yes, there is what we are calling the transition relief period, and in that case, the——

Chairman CAMP. Which means it is delayed for a year.

Mr. WERFEL. Yes, and the employer——

Chairman CAMP. So——

Mr. WERFEL. Right. The employer report that was due in filing season 2015 is now going to be due in filing season 2016, but that does not mean we are not going to continue to work with businesses to understand what types of offer of health coverage——

Chairman CAMP. But next year the employer mandate will not be enforced.

Mr. WERFEL. That is correct.

Chairman CAMP. That is the conclusion. Thank you for that.

Mr. WERFEL. That is correct.

Chairman CAMP. But I do believe the IRS will enforce the individual mandate that average Americans have acceptable coverage next year; is that correct?

Mr. WERFEL. Yes. The individual mandate is still in place.

Chairman CAMP. So, I mean, one of the comments from the Inspector General for Tax Administration said that the IRS will need to ensure that tax returns accurately claim the various applicable ACA provisions and, above all, that taxpayers are treated fairly.

And I guess my question for you is: Is it fair that businesses, big businesses are off the hook while the average taxpayer is going to be required to buy federally defined acceptable coverage through an individual mandate? How fair is that?

Mr. WERFEL. You know, my role in the IRS is to implement the laws. I rely on the Treasury Department to make certain decisions that are of a policy nature. I think the decision here and the issue of fairness and equity is a policy call that the Treasury Department made.

I believe there is a balancing that goes on in terms of making sure that we are implementing the law as effectively as possible. The employers and the business community reached out, indicated a need for more time, and there was a balancing decision made that we should provide them more time.

Chairman CAMP. All right. Thank you.

And, Mr. Cohen, I appreciate your openness about what HHS may be doing, and I think it just underscores how important this oversight hearing is on implementation as we are seeing new developments on a daily basis in this area. So I think any concerns that this is an unnecessary hearing are certainly waved away by your comments.

But let me just say that you have seen the rate filings for the plans being offered in the 34 Federal exchanges, have you not?

Mr. COHEN. We have had submissions from the issuers that will be offering in the Federal——

Chairman CAMP. And they have come to you because that is your responsibility.

Mr. COHEN. They have come to my office, yes.

Chairman CAMP. Yes. But we obviously have not seen them and the American people have not seen them. So my question to you is: Will the average family in mid and northern Michigan see a $2,500 reduction in the premiums they pay?

Mr. COHEN. You know, we have not released any data on the rates that have come into the Federally Facilitated Marketplace. We are very careful at CMS just as we are with the Part D program and the Medicare Advantage program. We only release that information once we have an agreement. We do not want to affect the market.

Chairman CAMP. Well, the President promised that we will lower premiums "up to $2,500 for a typical family per year." Is that going to happen?

And obviously we are a couple of months away from this being implemented. People are concerned about the costs, how they are going to be able to meet these obligations. Is the average family in mid and northern Michigan going to see that kind of rate reduction?

Mr. COHEN. I think that the average family in northern Michigan will have in a marketplace more options and far better coverage at an affordable price once the Affordable Care Act is——

Chairman CAMP. So they will see a $2,500 reduction.

Mr. COHEN. I cannot say. We are not releasing any information about the——

Chairman CAMP. Well, certainly you can understand why citizens are concerned on what is going to be a very large expense for their families that we cannot even have any sort of prediction in terms of where this is going to be after several years of so-called implementation.

Mr. COHEN. I actually think that predictions have proven not to be very useful. I think it would be more useful to look at the rates that States have actually released, which have in the 11 States——

Chairman CAMP. But given the numbers you have seen, have you seen on average a $2,500 reduction?

Mr. COHEN. We have seen a reduction if you compare apples to apples coverage in a number of cases, yes. We have seen a reduction in rates.

Chairman CAMP. So for the average family you have seen a $2,500 reduction?

Mr. COHEN. I cannot speak to $2,500 specifically.

Chairman CAMP. I mean, that is what the President promised.

Mr. COHEN. Well, I am not sure that is exactly what the President said, but——

Chairman CAMP. I am quoting from him. Are you suggesting I am not quoting him accurately?

Mr. COHEN. I am not suggesting anything.

Chairman CAMP. I certainly hope not.

Mr. COHEN. I am not suggesting that at all. I am just saying I am not——

Chairman CAMP. All right.

Mr. COHEN [continuing]. Sure what the President said.

Chairman CAMP. All right. With that, I will turn it over to Mr. Levin.

Mr. LEVIN. The President, I think, talked about "up to."

As long as you have raised Michigan, let me just tell you what is happening. Fourteen insurance carriers have now submitted to be participants in the marketplace in Michigan, 14. Blue Cross-Blue Shield has had 60, 70 percent, a dominant role in the insurance industry in Michigan. That is a fact.

And for Republicans who say they believe in competition, essentially that is what this marketplace is going to bring about for the citizens of Michigan, including in central Michigan.

Mr. Werfel, if 2009 is passed tomorrow and becomes law, would IRS be able to implement the Affordable Care Act?

Mr. WERFEL. From my understanding of the law, we would not because we would not have the ability to expend any resources to do our implementation efforts.

Mr. LEVIN. It is totally destructive. It will not happen.

Let me ask each of you, if I might. Will your agency be ready to go on October 1st? Mr. Cohen.

Mr. COHEN. Yes, we will.

Mr. LEVIN. Mr. Werfel, assuming 2009 does not pass?

Mr. WERFEL. Yes, we will.

Mr. LEVIN. Will consumers be able to begin enrolling in the exchange or marketplace coverage on October 1st?

Mr. COHEN. Yes, they will.

Mr. LEVIN. Will that coverage start on January 1, 2014?

Mr. COHEN. Yes, it will.

Mr. LEVIN. Mr. Werfel, there has been a lot of scare tactics about taxpayer data, and I just want to read to you from your testimony. "At no time is the tax data to be displayed to anyone outside of the marketplace."

Is that your assurance?

Mr. WERFEL. Yes. I mean, there is a set of procedures that we have put in place to make sure that there is clarity on when and how the taxpayer information is transmitted. It is transmitted over encrypted channels. There are all types of safeguards and procedures that we have put in place when we share taxpayer information outside of the IRS, which happens now for programs like Medicaid and other programs. We are using those same set of procedures, which have historically proven effective. They are not perfect, but they have proven historically very effective in mitigating the risk of any taxpayer information being used or accessed for unauthorized purposes.

Mr. LEVIN. And thank you. If either of you could comment on this, describe how this bill will affect millions of middle-class individuals and families who have been waiting for premium assistance when the marketplace opens on October 1st.

Would you like to answer that?

Mr. COHEN. Thank you.

So I would say in two ways. I think one very important way is that today for anyone who has an illness or has had an illness in the past, it can be difficult or impossible to get health insurance coverage because they either will be ineligible for it or it will be much too expensive because they will be rated up because of their existing medical condition.

That cannot happen with coverage beginning January 1st.

The second way is that for many people it has simply been unaffordable because of their income level, and for those people, there will be both, as Mr. Werfel has explained, advanced premium tax credits that will go directly to the insurance company to offset a portion of the premium, and there will also be a reduction in what they have to pay in cost sharing in terms of deductible and copays that will be paid directly to the insurance company to make the coverage affordable.

Mr. LEVIN. Thank you. I yield back.

Chairman CAMP. All right. Mr. Johnson is recognized.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Cohen, the Supreme Court stated very clearly "Americans have a choice. They can either buy government-approved health insurance or they can choose not to and instead pay a penalty."

That choice is never mentioned in the application, is it?

Mr. COHEN. No, the application asks people whether they want to apply and whether they want to get financial assistance purchasing coverage. So——

Mr. JOHNSON. But it never says they do not have to do it if they do not want to.

Mr. COHEN. Well, it does not say that they have to do it either. It just is available to people who choose to come to market.

Mr. JOHNSON. I think you need to look at that.

The website, *www.Healthcare.gov*, does not alert Americans that the Supreme Court says they have a choice. I do not think your website does that either, does it?

Mr. COHEN. I am not aware, but it does not surprise me if it does not. I do not think it tells people that they have to either. I think it offers opportunities for people to purchase insurance——

Mr. JOHNSON. Will navigators be required——

Mr. COHEN [continuing]. In a private market.

Mr. JOHNSON [continuing]. To inform individuals that they do have a choice, that they do not have to take the insurance if they do not want it?

Mr. COHEN. I think our goal is to get as many Americans insured in health coverage as we can, Congressman, because I think that provides security to their families and help if they become ill.

Mr. JOHNSON. Well, how are Americans going to be told they do not have to do this if they do not want to?

Mr. COHEN. Well, I think there are folks out there who are probably telling them that, but I am not sure that is my job.

Mr. JOHNSON. It is your job.

Now, Mr. Werfel, last week your employees who are a member of the National Treasury Employees Union sent a form letter for union members to send in to ask they be exempt from the exchanges. Why are your employees trying to exempt themselves from the very law that you are tasked to enforce?

Mr. WERFEL. Well, I do not want to speak for the NTEU, but I will offer a perspective as a Federal employee myself and a Federal employee at the IRS, and that is we have right now as employees of the government, of the IRS, affordable healthcare coverage, and I think the ACA was designed to provide an option or an alternative for individuals that do not.

And, all else being equal, I think if you are an individual who is satisfied with your healthcare coverage, you are probably in a better position to stick with that coverage than go through the change of moving into a different environment and going through that process.

So for a Federal employee, I think it is more likely, and I can speak for myself, I would prefer to stay with the current policy that I am pleased with rather than go through a change if I do not need to go through that change.

But if I am an individual that does not have affordable healthcare coverage or I am unhappy with my coverage, then it is my understanding the exchanges would offer a competitive alternative to look at, and that might be something someone might want to pursue.

But the IRS employees as a whole, I think what the NTEU is saying is they are pleased with their healthcare coverage. They prefer to stay in their current healthcare coverage.

Mr. JOHNSON. Well, do they have to pay a penalty then for not taking government coverage?

Mr. WERFEL. No, it is my understanding that the individual mandate would only occur if they are not getting coverage at all. If they opt for no coverage, then they would pay the individual mandate.

Mr. JOHNSON. Okay. I do not read it that way.

Mr. Werfel and Mr. Cohen, I have a question about fairness. Until July 2nd, the Administration was telling individuals who work more than 30 hours a week they were going to make your employer provide your health care. If they do not, you can get health care and a subsidy in the exchange.

Now, that is not true any longer for 2014. An employer does not have to offer coverage. So the individuals will have to go to the exchange in 2014 to get coverage. Many have already seen their hours slashed as businesses attempt to comply with the 30-hour rule, and it is kind of confusing and disrupting.

The fact is Obamacare is not ready, and it is the American people who bear the burden of you not being ready. Is that fair for employers and their employees? Either one of you.

Mr. COHEN. Well, I would just say, first of all, that the requirement that employers provide coverage under the Affordable Care Act when it goes into effect a year from now only applies to larger employers, 96 percent of which provide coverage to their workers today. So the impact of that provision is actually quite small.

Smaller employers are not subject to the employer mandate under the Affordable Care Act, and they will not be next year. So there is a lot of misunderstanding about, you know, what this provision is and who it impacts.

So I think I would stop there.

Mr. WERFEL. And, as I said earlier, I think on July 17th, a Treasury Department official, Marc Ivery, appeared here and answered these very questions. I think it is more appropriate for me to focus on the administration of these provisions and how effective the IRS can be in administrating these issues.

Chairman CAMP. All right. Thank you.

Mr. JOHNSON. Thank you.

Chairman CAMP. Mr. Rangel.

Mr. RANGEL. Thank you so much, Mr. Chairman.

And welcome to the battlefield.

People are talking about States, and I know that I am always overconfident about the successes of New York City and New York State, but it was my last reading that, as relates to the cost of health insurance in New York State, that it was far more favorable than what was perceived by our Chairman.

Could you share with me? Are my observations accurate?

Mr. COHEN. That is right. New York has published rates that have been proposed to be in effect in 2014, and they are lower for most people than the rates that were in effect this——

Mr. RANGEL. And in this great country we do have other examples of States that really want to provide services for their citizens, that have rates that are just as positive. Is that not true?

Mr. COHEN. That is correct.

Mr. RANGEL. Now, it is abundantly clear that this hearing is being called not to be of any assistance in this program being successful. I do not understand that concept. In the winter of my legislative years, I have never seen such partisan attacks on ideas, especially one that provides for health care for Americans. It seems to me that it is not only our moral responsibility, but our legal responsibility to enforce the law, and that is what you two intend to do.

However, my Speaker has made it clear that this particular Congress should not be judged by our performance in enacting law, but rather we should concern ourselves with the number of laws that have been repealed.

So while I do believe in the good intent of my Republican friends, I want you to answer the question: How can this Committee help you to effectively do your job which you by law have to do if they tell you at this hearing that their position is not to help you but to de-fund the resources that you need to do the job?

What is your answer? Is there inconsistency in any question that asks how you are performing if what they are going to produce is taking the money away?

Will this Committee in good faith be improving the law or trying to make certain that the law does not work?

Mr. COHEN. I would just say that the President's 2014 budget requests $1.5 billion for implementation of the Affordable Care Act, and this Committee certainly could help us and we would welcome its support with respect to that request.

Mr. RANGEL. That is very nice, but if, indeed, this ridiculous plan that is borne dead except for political purposes was to succeed, then there would be no need for your appearance before this Committee; is that not correct?

If they repeal the funding of it——

Mr. COHEN. Oh, right.

Mr. RANGEL [continuing]. You have no program.

Mr. COHEN. That is true.

Mr. RANGEL. And that is the publicly stated goal of the majority of the Republicans here, to not give you the resources. So you coming here is just establishing a blueprint of a destructive plan that not only concerns health care, but concerns the integrity of the United States' ability to keep government running, and the first step that was supposed to do this is to defend the health care for the citizens that we have pledged to protect.

And so I hope that soon, Mr. Chairman, we will have the Treasury here and other agencies that have obligations to see how it can be better understood how the Majority intends to deplete the funding for health care and to stop the government from producing and unfortunately not to have any plan to replace it.

So if this is the beginning shot of the war, once we hear from the religious community, the health providers, the business community that we will succeed, I do hope that some of my Republican friends will see that passing and improving law is a heck of a lot better than destroying and repealing laws.

Let me thank you for at least your attempt to show that you are going to do the best you can, and this Congress is going to do the best it can under President Obama, to provide health care for all American citizens.

Thank you for your service.

Chairman CAMP. Thank you.

Mr. Brady.

Mr. BRADY. You know, my family is worried that if Obamacare is not ready for business, is it ready for their family, for their children, for their loved ones, and there are a lot of lives at stake in health care. You have to be able to depend upon it, and I think they see that, you know, Warren Buffett gets a break from the White House on the employer mandate, but a single mom working in Texas does not. On January 1st, they are forced to buy govern-

ment approved health care or pay a tax, and they are worried about it.

And they have not seen it. I will tell you, regrettably, that the $2,500 reduction in healthcare cost the President promised my constituents is nowhere to be found.

Mr. Cohen, we heard from the head of Medicare and Medicaid Services just a few weeks ago. The testing is nearly done with the data hub. It is almost ready to go. So I wanted to ask about that.

Have you successfully sent a pilot application to the Social Security Administration, and have they successfully verified it back to you?

Mr. COHEN. We began testing with the Social Security Administration in May. The testing is continuing, and it will be completed this month.

Mr. BRADY. But you are saying you have not yet successfully sent a pilot?

Mr. COHEN. I am going to have to get back to you on the details of exactly what has happened.

Mr. BRADY. How about with the Department of Homeland Security? Have you sent an application there and have they checked prisoner status and lawful presence?

Mr. COHEN. My answer is the same for all those agencies. We are engaged in testing now. It began a few months ago. It is continuing, and it will be completed this month.

Mr. BRADY. So I'm just asking a really simple question. Have you sent a pilot trial application out, and received it back successfully and accurately?

Mr. COHEN. I understand your question, and I do not want to get into deep water on the technical aspect that——

Mr. BRADY. Well, that is not very technical. It is like a person sends to the exchanges. They put in their application, pretty easy, and you have said, "We have it checked out. It is already working."

Mr. COHEN. And I am sure we can get that answer for you to your specific question.

Mr. BRADY. Isn't that your key job? I mean, are you not in charge of having this data hub and the exchanges ready to go?

Mr. COHEN. I am one of the people who is working on implementation of the Affordable Care Act, along with a number of people at CMS.

Mr. BRADY. Sure.

Mr. COHEN. And I just do not want to give you an answer that is not correct.

Mr. BRADY. I appreciate that. Have you sent an application, a trial application to the States that have exchanges? Because that is a really basic process. We are on the eve of the exchanges. So you have sent it to the States to verify the accuracy?

Mr. COHEN. We are testing. My answer is the same. We have begun testing with the States. That testing is ongoing, and it is going to be completed this month, and the same is true with the issuers that are going to be participating in this as well.

Mr. BRADY. Is it safe to say at this point a pilot application has not been sent successfully throughout the data hub system and returned accurately?

Mr. COHEN. I just want to be careful to give you accurate information. So I would rather make sure that I am giving you the right answer and supply that to you.

Mr. BRADY. Is it more yes or more no?

Mr. COHEN. I am afraid I just cannot say any more than I have.

Mr. BRADY. That is just not very reassuring for families on the eve of this that——

Mr. COHEN. I am not saying there is not an answer. I am just saying I will get it for you.

Mr. BRADY. There does not appear to be an answer I think our constituents are hoping for.

Mr. Werfel, let me ask this. This data hub, you know, is a hacker's dream, but I do not know who I most fear, someone from the outside hacking information or the way our government handles it. You have assured us that the IRS, despite the significant abuses of power we are already investigating, that the IRS has never shared private taxpayer information with other Federal agencies, but I am looking at an email from 2008 where Lois Lerner did exactly that. She shared private taxpayer information with the Federal Election Commission.

So, one, how is she still on the payroll?

Two, why did you tell us this did not happen?

And, three, why should we trust the IRS to protect our taxpayer information under Obamacare?

Mr. WERFEL. Sir, let me respond to each of those. First, let me clarify. I never assured that there are not incidences that occur. We share information roughly with 300 different Federal and State agencies as a matter of routine business, and we have procedures and safeguards in place to protect that information, but no procedure or safeguard is perfect.

There are and have been historically incidences where unauthorized information has been——

Mr. BRADY. Sir, that is not what you told us in your last appearance before the Committee. My time has expired, but I hope we can——

Mr. WERFEL. If you want, I can answer that question on the record.

Chairman CAMP. If you want to respond in writing for the record, we will make sure that is part of it.

Mr. WERFEL. I can absolutely do that, yes.

Chairman CAMP. Mr. McDermott is recognized.

Mr. MCDERMOTT. Thank you, Mr. Chairman.

Welcome, gentlemen. As Mr. Rangel has said, you are in war. This is not a hearing. This is a battle, and it is a typical political battle where one side is throwing up dust and trying to confuse everybody all over the country about what is happening.

This hearing is really the culmination of months of a careful build-up. The Majority has been crafting a scandal narrative to support their truly relentless agenda to repeal the Affordable Care Act. For 2 months we have heard nonstop complaints against the IRS being corrupt and incompetent. Despite that, the only politically motivated act was the Republicans' request that the IG focus only on the treatment of conservative groups. They did not ask for

a full study. They only asked how it affected their friends in the Tea Party.

So today we are going to discuss whether or not the IRS and CMS are capable and competent enough to see the law through, and my colleagues already have thrown dust and mud at the wall to see if it sticks. None of it does, and what we are going to do tomorrow is the 40th fig leaf vote.

Senator Cruz from Texas calls these "fig leaf votes" to give people some cover when they go home so that people will not see they are absolutely naked. The truth about this Congress is that for 18 years this Committee has been functioning. Sixteen of those years were under the Republicans. We have never taken a vote in this Committee under Republicans on comprehensive reform.

For all their talk, nothing has ever been tabled in this Committee. Now we tabled a bill here, and we passed it out under Speaker Pelosi, and they have been trying desperately for 5 years to destroy it, and the question before us is whether the IRS is ready and able to collect your name, your family size, and income data to be used in a Federal exchange hub. They will not collect your health status. They will not have anything about anybody's ingrown toenails in this report. There is no prescription drug history that the IRS is going to have or the healthcare provider's name; just the data they collect from their average database of information for the tax system in this country: name, how much you make, how many people are in your family.

As far as CMS goes, they are ready. Exchanges, Medicare expansions will be ready to go. My State of Washington, we are going to have 80 percent registered by the first of March. We are already ready to go, and we have done an aggressive awareness campaign all along the West Coast, California, Oregon and Washington. You watch. The rest of this dais is going to be looking and saying, "Why can we not have that in" wherever they are from.

My constituents are already seeing an average of $500 a family in insurer rebates from parts of the ACA that are already working to hold insurers accountable for how they spend the premium dollar they take in. This is not an investigation in pursuit of better government. It is a desperate, 11th hour attempt to stop a law that will help Americans.

It is hard for me to believe that people who have made no proposals are saying to their people back home, "Don't you dare sign up for this Obamacare. It is going to be awful for you." I do not know how you run for office telling people that you do not want to.

And the proposal that is on the table here today is straight out of the Republican Party. Mitt Romney created it in Massachusetts, and at least one Member on this dais campaigned nationally on this issue, saying that they are now against Romneycare as it is put nationwide.

So I would like to hear what happens to the 50-year-old, the person who has a $50,000 a year income when they go to the exchange. What will happen to them? Explain the process for people.

Chairman CAMP. You just have a few seconds remaining.

[Laughter].

Mr. COHEN. Well, I think a person with a $50,000 income, that is going to be too much income to be eligible for subsidies. So they

can buy insurance through the marketplace. They can buy insurance through the existing healthcare marketplace outside the exchange. They will have all the choices that are available.

This is a private market solution to a pressing social problem.

Chairman CAMP. All right. Thank you.

Mr. Ryan.

Mr. RYAN. I enjoy following Mr. McDermott.

I guess the new line here is that the Majority is peddling a scandal narrative, that they are throwing something at the wall to see if it sticks.

We had a gentleman from the National Organization of Marriage come here and testify how the IRS leaked their sensitive taxpayer information to their political opponents.

We had a lady from a pro-life group in Iowa who told us how the IRS said if you surrender your First Amendment rights to speak your views, then maybe we will approve your application.

That is not a phony scandal. That is a real scandal. No matter what our colleagues try to say to whisk this issue away, the government was intimidating people and targeting them based upon their political views. That is not phony. That is real.

Now here I want to actually ask you a question instead of giving a speech for 5 minutes and then asking a question, you know, with 10 seconds to go.

Mr. Cohen, is an adult child, meaning someone under the age of 26, who has a parent with affordable employer sponsored insurance eligible to receive a tax credit in the exchange?

Mr. COHEN. No.

Mr. RYAN. Okay. So let's walk through a scenario here. Take a young woman 25 years old, living in Milwaukee, and her mom and dad live in Chicago, and they have employer sponsored health insurance. She goes to the exchange because her job in Milwaukee does not offer her health insurance.

Mr. COHEN. Right.

Mr. RYAN. And she gets the three-page application for single people without employer coverage. The application says specifically "single adults who are not offered health coverage from their employer." There are no further questions about employer coverage. So she signs up. She gets a subsidy. It could be thousands of dollars of subsidy that she is not eligible for because her parents——

Mr. COHEN. I may be wrong then. I may be incorrect in my previous answer.

Mr. RYAN. My understanding of the law is that she is not eligible for a subsidy——

Mr. COHEN. Okay, okay.

Mr. RYAN [continuing]. If her parents' insurance covers this. But since you delayed the employer mandate, your data hub has no way of reconciling that record. So she is going to get a subsidy she is not entitled to or eligible for.

Take a husband and wife living in Madison. The husband has been the person with the insurance for the family, but he is losing it because the company is not offering it anymore. He got his hours knocked down to 30 or something like that.

The wife works at a job, and her employer does offer credible insurance, but she did not take it because she never has before, and it is just another year, and she is not doing it.

He goes and signs up for the exchange. He gets the subsidy. He gets Obamacare, but they are not eligible for the subsidy, but you have no way of verifying that.

So what are you going to do? Are you going to make this person pay it back, Mr. Werfel? Because if I am not mistaken, the law requires you to do so.

And if we are not going to reconcile this record until maybe 2016, as you just said, is that going to be 2 years of subsidies going to people that they are not eligible for? They did not get it fraudulently. They just got it through confusion.

Then does the law not require you to put a huge tax on their tax bill at the end of the day, when you finally reconcile this data, and so then they will get thousands of dollars of taxes clawing back the subsidy that they were not eligible for?

Is that not what you will have to do?

Mr. WERFEL. A couple of responses. First, the employer report that is going to be very helpful in validating the state of cover, you are right. We are not going to get it in filing season 2015, but there are other ways that we can work with the employer community to get that information.

Mr. RYAN. Are you going to have that up and running when the people start filling this out next year?

Mr. WERFEL. We are working very closely, and I think HHS and the exchanges and IRS are working together with the business community to figure out alternative solutions.

Mr. RYAN. Okay. So——

Mr. WERFEL. It is a partnership with the business community.

Mr. RYAN. So this fall when a 25-year-old Milwaukeean signs up because she does not get health insurance at her job, but she is ineligible legally for the subsidy, when she actually applies for the subsidy because she does not know any better because the application does not say she is ineligible——

Mr. WERFEL. If she is——

Mr. RYAN [continuing]. You are going to catch that?

Mr. WERFEL. If she is in the right income, if she is between 100 and 400 percent of the poverty level, it is my understanding——

Mr. RYAN. Most 25-year-olds are.

Mr. WERFEL [continuing]. It is my understanding that the exchange will reach out to employers at that time. It will not be the official report that we will be getting in filing season 2016.

Mr. RYAN. Okay.

Mr. WERFEL. But, again, it is not——

Mr. RYAN. Let's say her parents live in Texas and she is living in Milwaukee. This exchange is going to see all of this? It is going to figure all of this out? You have delayed the employer mandate and you are going to reconcile this record? You are going to make sure she does not get a subsidy she is not entitled to?

Mr. WERFEL. I am saying that we are working on solutions. The IRS is working on solutions at the back end.

Mr. RYAN. Okay.

Mr. WERFEL. The exchanges are working on solutions at the——

Mr. RYAN. Let me get at it this way. Let's say you do not catch it. Do you not have to hit her with a tax liability to claw back that subsidy that she was not supposed to get?

Let's just say you do not catch it, and she gets the subsidy she is not supposed to get. You have to hit her with a tax to claw it back at the end of the day, correct?

Mr. WERFEL. Well, if we find that there is a problem, that she got a credit that she should not have gotten, if we do that, and we might be able to do that by working with the employer community——

Mr. RYAN. I am just saying assume——

Mr. WERFEL [continuing]. Then we will, but there will be a cap. Depending on her income level, and I can walk through that with you, there is protections for those individuals in those cases where we would cap the amount that we would claw back.

Mr. COHEN. I would just say I do not know why anyone who could get free insurance, free to them, insurance through their parents' policy, would choose instead to go on the marketplace and pay for insurance, even if they get a subsidy.

Mr. RYAN. I guess we will just have to hope, will we not?

Mr. COHEN. No, it is not a question of hope.

Mr. RYAN. Thank you.

Mr. COHEN. It is a question of logic.

Chairman CAMP. All right. Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman.

Mr. Chairman, has the Majority devised a way that we will be able to vote on this during the August break?

Chairman CAMP. If the gentleman would like us to, I am sure.

Mr. NEAL. I mean, we could do perhaps proxy voting or Internet voting or early voting in anticipation of September. I think that the game plan here is to get to the 40th and the 100th time before implementation. Is that the strategy?

Chairman CAMP. I think Mr. Rostenkowski was the last Chairman that allowed proxy voting.

Mr. NEAL. It seemed to work better, by the way, than what we are experiencing here. I must tell you that, Mr. Chairman.

Mr. Cohen, a followup to Mr. Rangel's questions about what we are witnessing in New York and in some of the other States. Would you care to expound? And I will give you some time to talk about the trend line that you are witnessing.

Mr. COHEN. Yes, thank you.

HHS put out a report recently that captured the ten States and the District of Columbia, and since then we have seen Maryland, that have made public the rates, and that is a matter of State law and procedure that they make those rates public when they are filed.

On average, they were 18 percent below what the Congressional Budget Office estimated premiums would be in the marketplace beginning in 2014. In all cases, they were what our analysis shows are affordable, particularly when you then take into consideration the subsidies that people will be eligible for that will help pay for a portion of those premiums.

So what we are saying is in States where there is a relatively competitive market with a number of carriers that are offering coverage in the market, the marketplaces are offering new opportunity, new transparency, new competition that is having a very positive effect on rates.

In addition, we have seen overall health insurance costs and premiums going up at a much lower rate today than they have been in decades.

Mr. NEAL. That certainly has been the case in Massachusetts, despite some of the acrimony that has developed in terms of the overall argument. There has been a stability that has settled in, and you read stories from time to time indicating that this has changed or that has changed, but by and large, the satisfaction rate in the State of Massachusetts based upon Governor Romney's plan, working incidentally with a Democratic legislature, that came to the conclusion that you could, on a State-by-State experiment, stabilize healthcare costs.

And I cannot emphasize enough that when you have almost three-quarters of the people in the State who regularly suggest that they are satisfied with the plan, I think you have a good model there to build upon.

Mr. COHEN. I agree. Thank you.

Mr. NEAL. Thank you, Mr. Chairman.

Chairman CAMP. Thank you.

Mr. Nunes.

Mr. NUNES. Thank you, Mr. Chairman.

I am a little concerned at Mr. Werfel's inability to answer Mr. Ryan's question. I want to yield to Mr. Ryan to follow up on his question that Mr. Werfel could not answer.

Mr. RYAN. I will try to be brief.

I do not think you understand the law you are in charge of executing and enforcing. The claw-back as you describe where you limit how much a person pays back, that is only a person who is eligible for a subsidy if their income changes in the year in which the subsidy takes place.

But if a person—this is your law—if a person gets a subsidy they are not eligible for, which clearly will be the case if your major enforcement tool, the employer mandate, is not in place, the law requires you claw back 100 percent of that subsidy to which they were not entitled to.

Mr. WERFEL. Yes, I apologize. I mean, the hypothetical that you gave had a lot of moving pieces, but you are correct. We——

Mr. RYAN. Okay. Somebody gets a subsidy they are not eligible for.

Mr. WERFEL. The one question I have is we have discovered that this individual got an inappropriate subsidy. So we have made some connection with their employer to learn that information.

Mr. RYAN. Which will be 2015 at the earliest.

Mr. WERFEL. We could learn it in 2015. We will get the official employer report in 2016. Either way, we are going to make the efforts——

Mr. RYAN. All right. So 2 years.

Mr. WERFEL [continuing]. To validate the fact of coverage for each individual that is receiving a subsidy.

Mr. RYAN. So somebody will get 2 years of a subsidy that they signed up for unknowingly, which they got, which the law does not make them eligible for. You will have to tax that back in 2 years' time to get all of it. That is the law, correct?

Mr. WERFEL. We are going to help the individual at the front end when they are filling out their taxes and they are navigating through the exchange to understand whether they have an employer plan——

Mr. RYAN. I think you have already answered the question.

Mr. WERFEL [continuing]. That would have brought them——

Mr. RYAN. If you do not have an employer mandate and you do not have the tool in the data hub which you claim you need to have to verify this, you are going to have a lot of people getting subsidies they are not supposed to get, and then you are going to hit them with a big tax bill in about 2 years to claw it back because the law requires you to do that.

I yield back to Mr. Nunes.

Mr. NUNES. That's free money.

Mr. Cohen, do you foresee any additional Obamacare provisions that may not be ready for implementation?

Mr. COHEN. No.

Mr. NUNES. Do you see any more grants, granting any more waivers to employers or companies that come and petition for additional time or a waiver?

Mr. COHEN. No.

Mr. NUNES. None.

Mr. COHEN. No.

Mr. NUNES. You are not going to give any waivers to any companies, any unions?

Mr. COHEN. Well, if what you mean by "waiver" is telling someone that they are not required to follow the law that I am charged with implementing, the answer is no.

Mr. NUNES. Okay. Thank you.

Mr. Werfel, will the IRS need to access Americans' healthcare records in order to enforce the Obamacare tax?

Mr. WERFEL. No.

Mr. NUNES. What records will they have to go after to enforce the Obamacare tax?

Mr. WERFEL. There are two key things. In order to comply with the law, we are providing taxpayer information through the hub to the exchanges, that is, income, filing status, household size, and the other factor that we need to know is we need to know fact of coverage. So we will get information about the policy itself, like the policy number and the insurer.

Other than that, there is no other information. We do a computation for what the premium tax credit, the advanced premium tax credit is. We get information where we are blind to what the individual is. We get it through the exchange information like the plan that they have chosen, the cost and some of the other——

Mr. NUNES. Okay. So that information that you are going to have——

Mr. WERFEL. Yes.

Mr. NUNES [continuing]. How many other government agencies at this time will you be sharing that information with, the tax records?

Mr. WERFEL. I do not know. I will answer the question this way. We currently share taxpayer information with roughly 300 Federal and State agencies under existing laws and regulations without the ACA. The ACA will add additional entities that will receive this information, in particular, the exchanges, both the State and the federally run exchanges.

Mr. NUNES. Three hundred different——

Mr. WERFEL. No, no. Right now, the baseline is 300 different Federal and State agencies under existing laws and regulations, before the ACA ever came about, received taxpayer information from IRS, and as I mentioned, there are a lot of safeguards in place to protect that information.

Now, that number of entities will be expanded. I do not have the exact number at my fingertips, but it has expanded because the information is flowing through to both the Federal exchange and the State-based exchanges.

Mr. NUNES. How many new IRS agents have been hired to date to implement Obamacare?

Mr. WERFEL. I can get you that information. I do not have it at my fingertips.

Mr. NUNES. A hundred, thousands?

Mr. WERFEL. You know, if you give me a moment, I will get that information and I can get it to you before the end of the hearing.

Mr. NUNES. Okay. And can you get not only how many have been hired to date, but also how many you plan to hire to enforce the Obamacare?

Mr. WERFEL. I mean, we will have estimates on that for the 2014 budget. I will say, right now, we are in a hiring freeze due to sequester and other budget cuts. So there has been a lot of challenge there, but the 2014 budget——

Mr. NUNES. Thank God for that. I yield back.

Chairman CAMP. Thank you.

Mr. Becerra, and then we will go two to one after that.

Mr. BECERRA. Thank you, Mr. Chairman.

Gentlemen, thank you for your testimony.

Let me assure you of something. At some point we will start to ask you questions more and more bipartisanly on how to implement this, but for now you are witnessing and experiencing part of a strategy to undermine the ability for the health security law to actually take effect.

Last week in the article that Mr. Levin introduced into the record by Mr. Norm Ornstein with the American Enterprise Institute, which is a conservative think tank, in that article titled "The Unprecedented and Contemptible Attempts to Sabotage Obamacare," Mr. Ornstein—and let me just quote a couple of passages so we know what we are getting into. This was last week's article.

"What is going on now to sabotage Obamacare is not treasonous—just sharply beneath any reasonable standards of elected officials with the fiduciary responsibility of governing."

He goes on to say, “To do everything possible to undercut and destroy its implementation of the healthcare law, which in this case means finding ways to deny coverage to many who lack any health insurance, to keep myriads who might be able to get better and cheaper coverage in the dark about their new options, to create disruption for the health providers who are trying to implement the law, to threaten the even greater disruption via a government shutdown in order to blackmail the President into abandoning the law, and to hope to benefit politically from all the resulting turmoil is simply unacceptable, even contemptible.”

And that was written just last week. If people did not believe Mr. Ornstein and what he was writing, then recently it was just leaked out that this week our Republican colleagues had a meeting where a strategy was introduced by the Speaker where the strategy was a series of targeted strikes that will fracture the President’s Obamacare coalition and topple this law.

And so they go through the strategy of how to do this, and one of those is this hearing and this proposal, legislative proposal that is before us. I think at some point we will get to the nuts and bolts of administering the law because it is important.

I had a gentleman write to me from my district back in 2009 when we were trying to pass this health security law. He wrote me. His name was Eric. I will not give you his last name. “I am a self-employed architect and pay monthly for a very expensive bottom line, high deductible policy. My wife and I are covered, but our son had a stroke when he was 8 years old. He is not insurable. Our coverage costs $750 per month. This is very expensive, beyond what we can afford, and there only as an emergency coverage. If we use the insurance, it immediately jumps in price. The last time it was a $250 per month increase in cost. If we incur another increase, we will have to drop the policy.”

Mr. Cohen, the law passed. Eric and his wife are now under the new law. Is Eric’s son now able to get insurance coverage?

Mr. COHEN. That is right. The law today prohibits insurance companies from denying Eric’s son coverage because of his previous stroke.

Mr. BECERRA. So that little boy, who could not get coverage before the health security law today, has coverage the way every other child with that same kind of preexisting condition would be able to get coverage.

Mr. COHEN. That is right.

Mr. BECERRA. Let me ask about another gentleman from my district, Benjamin. He says, “Our insurance company retroactively canceled my wife’s coverage after they had approved her to get an MRI. She was stuck with a bill that has taken 3 years to pay off. They scoured her record to find any mistake they could call her on rather than foot a bill for a procedure that they had approved for her to undergo. I do not consider this insurance. It is more akin to gambling.”

Today, because of the rescissions provisions that we put into the law, is the insurance company able to deny Benjamin and his wife payment for an MRI that the insurance company had approved?

Mr. COHEN. They cannot. That is a practice that some insurance companies engaged in called post claims underwriting. When

someone came in with a claim, they would go back to see if they could find a reason to take the policy away just because the person got sick and made a claim. They cannot do that anymore.

Mr. BECERRA. And we have also heard that this health security law that passed was a job killer. I remember that was one of the big arguments against doing this law. My understanding is, and you may not be aware of this, but that close to a million jobs have been created in the healthcare industry since April 2010 when we passed the law. Rather than kill jobs, it has helped create more jobs because people are gearing up in the healthcare industry to help some 30 million Americans actually have health insurance for the first time, like Eric and Benjamin will have for their families.

I hope at some point we will be able to actually get to the nuts and bolts of how we make this law work better because there clearly are kinks. No one denies that there are flaws in the law. The implementation has to go much better than the policy and the written word in the law, but at some point the fever will break in Washington. We will get back to work here the way Americans expect us to, and we will make this law work for everyone.

Thank you for being here.

Mr. COHEN. I look forward to that, Congressman. Thank you.

Chairman CAMP. Mr. Tiberi.

Mr. TIBERI. Thank you, Mr. Chairman.

Let me assure my colleagues on the other side that the reason why we have concerns is because we do not believe there are kinks. There are major problems.

And let me read you a letter from a constituent whom I have never met before, or part of a letter. “I am a student employee at Miami University in Oxford working this summer in a university research lab. Last week”—this was dated earlier this week—“last week I received a notice from the university staff informing me that due to recently changed policy, I no longer would be able to work full time. I would have to stop working after reaching a 28-hour limit per week. Of course, I was startled and upset, and it was not long before I knew the culprit behind this change in policy was the Affordable Care Act.”

That is one of many letters, phone calls, and meetings that I have had concerning, not kinks, real life problems with the Affordable Care Act.

The Chairman mentioned, Mr. Cohen, at the beginning, that the President stated that the average family would see a $2,500 reduction. I remember that because I heard a lot about that in my district in central Ohio after he mentioned that. Have you seen the rate filings for the plans being offered in the State of Ohio, Mr. Cohen?

Mr. COHEN. I have not.

Mr. TIBERI. You have not, yet? I have not, either. The people of my State have not. However, our Insurance Department is warning that individuals in our State could face an 88 percent premium increase from current plans in our State. Would that be a $2,500 reduction?

Mr. COHEN. It would not, but most of those projections have really proven to be completely erroneous. So I do not know what they are looking at there.

Mr. TIBERI. Erroneous based on what?

Mr. COHEN. Erroneous based on whether you are making a real fair comparison between the type of coverage that people will have, you know, beginning in 2014 and whatever coverage that they have today.

Mr. TIBERI. So what the Insurance Department has said apples to apples. Basically, if you have a plan today offered by Blue Cross-Blue Shield that is a standard plan, you will in the exchange see a standard plan that will go up about 88 percent.

Would that not be a way to judge it?

Mr. COHEN. Well, I have not seen those rates. So I cannot comment on that prediction.

Mr. TIBERI. Well, I would hope you would come back after October 1st when that information is public so constituents who ask us why these plans are going up, then we can ask you.

On CMS' marketplace training slideshow from this month entitled "Understanding the Health Insurance Marketplace," it specifically notes that there are 10 population centers around the country, including Ohio where there are three, including Columbus where I am from, that will have special enrollment assisters contracted to help uninsured young and healthy people. That is their quote.

Can you tell me about what the special enrollment assisters will do and how they will be contracted and who will pay for them?

Mr. COHEN. We have put out for bid a contract for people to help with enrollment. What you are referring to is the fact that we want to focus our efforts on areas where there are large numbers of uninsured, and those folks will be available to provide assistance to people.

Mr. TIBERI. How are they different than navigators?

Mr. COHEN. The Navigator program is a grant program, and we have solicited grants from community-based organizations that will also be helping people in getting enrolled. This is a Federal contract.

Mr. TIBERI. So they will be doing this job, but their titles are different?

Mr. COHEN. They will be doing essentially the same work, but one is a grant program through, you know, locally based communities. The other is a Federal contract.

Mr. TIBERI. Also on the website, and try to clear up this confusion for me, I found references to navigators, non-navigator assistance personnel, in-person assisters, special enrollment assisters, a Consumer Assistance program, and certified application counselors.

Do they have different roles?

Mr. COHEN. The roles are similar. Some of those, the navigators, for example, will be doing, I think, more outreach and education as well as actually helping people get enrolled, but the enrollment assisters, their job will really be to help people go through the process of filling out an application, and the funding is different.

So, as I said, a grant program versus a contract.

Mr. TIBERI. I know the folks on the other side of the aisle believe that we have just a contempt for this, but there is a ton of confusion that comes from this website from our constituents who

do not understand, who are not—I do not understand—who do not understand the difference between those different types of programs, how they are funded. Are they agents? Are they not agents? How familiar are they with healthcare law, healthcare services?

And so I would hope that—and I am going to send you a letter to get some other clarifications on your website confusion that has already come to our office.

Mr. COHEN. Yes. My assumption is that people do not care very much, you know, what name or what funding source is used. They are going to be looking for help to get health insurance coverage, and they will take that help, and they will be very happy for it.

Chairman CAMP. All right. Thank you.

Mr. Reichert.

Mr. REICHERT. Well, I want to just sort of repeat what my colleague here, Mr. Tiberi, said. There is a lot of confusion, and I think that this hearing is a forum where we can get some of those answers hopefully, and so we appreciate your attendance here, and we do have some legitimate questions.

I was just sitting here and listening to some of the testimony and some of the exchanges. It is obvious to me that even you are confused about what the law says or does not say, what you have accomplished or have not accomplished or may accomplish, or what some of your deadlines are. Your answers are not clear, and I think everybody in the audience and people on the panel and people at home watching can see that.

So, Mr. Werfel, I want to start out with just some questions that are yes or no questions. Have you been able to implement Section 9003, which increases taxes by limiting health savings account expenditures?

Mr. WERFEL. I will have to get back to you on that question.

Mr. REICHERT. I think you have been.

Have you been able to implement Section 9004, increasing taxes on distributions from HAS and MASAs not used for qualified medical expenses?

Mr. WERFEL. Again, I will have to get back to you on the answer to that.

Mr. REICHERT. And I think that is a yes.

Have you been able to implement Section 9005, increasing taxes by limiting health flexible spending arrangements under cafeteria plans?

Mr. WERFEL. Again, I will get you that information.

Mr. REICHERT. I think that is a yes.

Have you implemented 9007, putting additional requirements on charitable hospitals?

Mr. WERFEL. Again, I will get you that answer.

Mr. REICHERT. And that is a yes.

Have you implemented Section 9008, increasing the taxes on branded prescription pharmaceutical manufacturers and importers?

Mr. WERFEL. I believe we have implemented that, yes.

Mr. REICHERT. Yes.

Have you implemented Section 9009, which increases the medical device tax?

Mr. WERFEL. Yes.

Mr. REICHERT. Yes. Are you on track to implement Section 9010, which imposes a tax on health insurance providers?

Mr. WERFEL. I will get back to you on that question.

Mr. REICHERT. That is a yes.

Mr. WERFEL. We are generally on track with all of our major deliverables.

Mr. REICHERT. Have you implemented Section 9013, raising taxes on those who have to take an itemized deduction on medical expenses?

Mr. WERFEL. Again, I believe we are on track with all of——

Mr. REICHERT. Probably a yes. So you are on track with all of these. Some of these you could not answer, but I have information that these are all yeses, that you have completed implementing these tax laws. I am disappointed that the supposed benefits of this law have not been seen by my constituents, and I think that is a frustrating part, not only frustrating, but confusing.

I am not sure if they will ever be seen by my constituents, and so I find it sort of odd, too, that the employees at the IRS, including yourself because you just made the statement, you feel like you have good health insurance. You would like to keep that health insurance. So would the IRS employees. So would a lot of other Americans across this country, but one of the benefits in this health law was supposedly that we could keep our healthcare plan if we liked it or could keep our doctor if we liked our doctor. But according to the President, and I will paraphrase a quote that we heard him say at a conference he attended and spoke at, was that, you know, there seems to be some language snuck into the healthcare law that runs contrary to that premise, runs contrary to the premise that you can keep your doctor if you like your doctor, and it runs contrary to the premise that you can keep your healthcare plan if you like it, but IRS agents supposedly now have filed a waiver because they cannot keep their healthcare plan if they like it. They have to ask for a waiver.

Well, you know, I know of a lot of Americans who want to ask for a waiver. So it is deeply disappointing that the only part of this bill that you have been able to implement are the provisions that have cost Americans and will cost Americans in their pocketbook.

Mr. Cohen, I am really confused by your testimony about testing of data. You will get back to us on an answer? Is that what I heard you say?

You are testing, right?

Mr. COHEN. Yes, we are testing.

Mr. REICHERT. What is the testing? I want to know what the testing is.

Mr. COHEN. The testing is all aspects of the system that are going to be needed to——

Mr. REICHERT. Well, what are you——

Mr. COHEN [continuing]. Be operational on October 1——

Mr. REICHERT. What have you done, though? What have you done?

Mr. COHEN [continuing]. Are being tested.

Mr. REICHERT. What have you done? When you say "testing," what do you mean? What have you done? What is the test?

Mr. COHEN. I am a layperson. I am not an IT person. So I am going to give you the layperson's answer. They test the systems to make sure they are functioning as they are meant to. They run different scenarios to see whether——

Mr. REICHERT. And you think you are on track?

Mr. COHEN. We absolutely are.

Mr. REICHERT. Well, in fact, less than 2 weeks ago insurers warned that both they and your department "face significant operational and logistical challenges in the first 2 years at a minimum which are dependent in large part on a variety of technical interfaces, data exchanges, and program infrastructure."

I think you are in trouble. I do not think you are going to meet your deadline, and I yield back.

Chairman CAMP. All right. Mr. Doggett.

Mr. DOGGETT. Thank you, Mr. Chairman.

It has come as quite a surprise this morning to learn that the focus and purpose of this hearing is to determine whether the Affordable Care Act is on track because the people that are conducting the hearing when it comes to health care have been very zealous on the derailment program for health care. They have offered no constructive suggestions. It is never how can we make health care work better for the American people. It is always how can we derail it.

I am surprised, in fact, that they even have time to have a hearing between the repeal votes because we have had so many of them.

Two and a half years ago in this very room, we had our first hearing at the beginning of the last Congress on the repeal of Obamacare, and the House proceeded to repeat it, vote number one. The next day it passed a two-page bill that contained 12 platitudes about health care, and that is the last time we have heard about those platitudes in terms of any legislative action except for one bill last year that provided tax breaks for Tylenol.

The alternatives being offered to the American people to Obamacare is really Nothingcare when it comes to legislative action in this Committee and on the floor of the House. Now, there are many problems with the Affordable Care Act. I wish your efforts to try to see it effectively implemented were not day after day being undermined and underfunded and interfered with. But tell us, if you would, Mr. Cohen, on October 1st, because I never thought that their attacks were about denying the IRS power or denying you power; they are about denying rights to the American people that they are now entitled to under the Affordable Health Care Act.

On October 1st, if you are among the millions of uninsured people in Texas that do not have any way to get insurance right now, what rights do you have then as an American citizen under this Act?

Mr. COHEN. You will be able to submit an application either online or in person or over the phone or on paper. You will be able to determine whether you are eligible for Medicaid or CHIP, on the one hand, or a subsidy in the form of an advanced payment of the tax credit, on the other. You will be able to shop and choose a private health insurance plan that you want to enroll in, and begin-

ning in January you will have to make a premium payment, but in addition, the amount of that advanced premium tax credit will go directly to the insurance company and help pay for that coverage.

Mr. DOGGETT. And if you are working at a lower wage job, you are entitled to a premium tax credit to assist you in getting health insurance that you have not been able to get until now.

Mr. COHEN. That is right.

Mr. DOGGETT. I had a woman a while back at a Relay for Life gathering come up to me in tears because her sister had breast cancer, and when she went to get treatment she learned she only had $25,000 of treatment to get radiation and chemotherapy to treat that condition, and they would not let her begin the treatment because it was going to cost so much more than that.

Mr. COHEN. Right.

Mr. DOGGETT. What happens to a woman like that who was left as a victim to the fine print put in there by her insurance company that she knew nothing about as a typical insurance purchaser? What happens to her under the Affordable Care Act that they want to derail?

Mr. COHEN. Those provisions are in effect even today and have been since September 2010. Lifetime limits are no longer permitted. So you cannot put a cap on the amount of money that an insurance will pay over the course of the person's lifetime, and annual limits have been phased out, and now beginning in 2014 will also be completely eliminated. So an insurance company cannot say, "We will only pay a certain amount of money in a year for your claims."

Mr. DOGGETT. As far as rights that exist right now under this Affordable Health Care Act, the same Affordable Health Care Act that the latest thing in the last few days has been whether they are willing to shut down the entire government, threaten the full faith and credit of the United States just because they are so zealous about derailing the Affordable Care Act and denying rights to Americans; right now if you are a senior do you get any rights that if we repeal the Affordable Health Care Act you would be denied what you get under the Affordable Health Care Act already?

Mr. COHEN. There are a number of rights under the Affordable Care Act. For example, preventive services are provided free of any copay or any deductible. That is just an example. So people can actually get the kind of preventive care that they need to keep themselves healthy.

Mr. DOGGETT. And prescription drugs, are there any benefits that if we repealed the Affordable Health Care Act seniors would be denied what they have today?

Mr. COHEN. The so-called donut hole was closed by the Affordable Care Act. So millions of seniors have saved money as a result of——

Mr. DOGGETT. And the solvency of Medicare——

Chairman CAMP. The time has expired.

Mr. DOGGETT [continuing]. Would be reduced also by——

Chairman CAMP. That answer will have to be the end of it. Thank you.

Dr. Boustany.

Mr. BOUSTANY. Thank you, Mr. Chairman.

I am glad to see that my colleague from Texas recognizes that there are many, many problems with this healthcare law. I am certainly aware of it with 30 years of it with 30 years of clinical experience in medicine. I am certainly aware of the problems attendant with this law.

Mr. Werfel, Mr. Ryan pointed out a number of problems that are going to occur because of the delay in the employer mandate or the employer reporting requirements and, you know, the propensity for overpayment of subsidies, possible fraud, abuse, and so forth. And yet Treasury had 3 years to come up with the regulations on how this would work on these reporting requirements, and obviously the department has failed to date to come up with an adequate approach to this, hence the delay.

So is there a problem with the statute? I know you are in charge of implementing. The burden is on your shoulders to implement this, but I know you have had some discussion with Treasury on this. Is there a problem with the statute?

Mr. WERFEL. I do not think there is. I am not aware of a particular problem with the statute. We are working with the insurer and employer community to understand how best to implement the legislation through regulation of the reporting requirements.

Mr. BOUSTANY. But 3 years. It has been 3 years of some very smart lawyers working on this, and you reference, I believe you said earlier alternative methods to validate. Can you give us any indication of what those alternative methods will be or is there any hope that you can implement this?

Mr. WERFEL. Well, there is a communication that we can set up with—there are a lot of issues here, but the one that I think you are focusing on is whether we can determine whether an employer provided plan would block an individual from getting a premium tax credit. That is one issue, and I think the transition relief period, or the delay, does create additional challenges for the IRS in doing that, but it is not something that we cannot mitigate.

Mr. BOUSTANY. But 3 years, 3 years is a long time. When did those discussions begin?

I mean, I know you are relatively new in the position. Were you brought into these discussions from day one?

Mr. WERFEL. Not from day one. The first I learned about it was in late June, that this issue was under consideration, but my staff had been consulted before then because they were constantly consulting IRS staff to understand what the administrative impacts were.

And in this case we looked at the administrative impacts, and we determined that we can work with the employer community to get other sources of information from them to do the job of determining whether there was a sufficient employer offer.

Mr. BOUSTANY. Did the IRS recommend the delay?

Mr. WERFEL. No, not that I am aware of.

Mr. BOUSTANY. Okay. Were other agencies or departments involved in those discussions or did they recommend the delay?

Mr. WERFEL. I think it is my understanding that HHS and Treasury discussed the issue. I am not sure who in the government recommended the delay. I do understand that the employer com-

munity came in and we received comments that they preferred we take more time, delay the provision, and work through some——

Mr. BOUSTANY. I think the employer community would like to see that employer mandate go away, but when were you informed of the delay? I think it was announced in a blog post on July 2nd.

Mr. WERFEL. Yes.

Mr. BOUSTANY. Were you notified earlier?

Mr. WERFEL. It was late June. I think it was around June 21st that I learned of it.

Mr. BOUSTANY. Okay. Who told you?

Mr. WERFEL. My recollection is I was in a meeting with the Treasury Department on a bunch of issues, and this was on the agenda, and it came up, and I understood that this decision was in the works and was being made.

Mr. BOUSTANY. Okay. Well, obviously we need to do more oversight, and I take issue with our colleagues on the other side of the aisle who think this is all a charade and a joke. We are trying to do oversight, and we are trying to understand what the problems are, and obviously there are plenty of problems and this is just one of them.

One other question on a different subject. Over a year ago I asked then Acting Commissioner Steve Miller to provide all documents with regard to the application or the decision about premium subsidies and whether or not they would apply to federally created exchanges. We have not gotten those documents yet. I would like you to commit to me to get those documents to us surrounding that IRS decision because it seems to run counter to the statute.

Could you get that to us before September?

Mr. WERFEL. I was not aware of that document request. I commit to you that I will look into the issue and get back to you as soon as possible with the time frame.

Mr. BOUSTANY. Well, it has been a year. So hopefully——

Mr. WERFEL. Yes. I just have to look into it.

Mr. BOUSTANY. I know staff have done work. I hope staff have done work on that. I would like that information before we get back in September.

Mr. WERFEL. Understood.

Mr. RANGEL. Would the gentleman yield?

Mr. BOUSTANY. I will yield with what little time I have.

Chairman CAMP. Dr. Boustany has the time.

Mr. BOUSTANY. Yes, I will yield.

Mr. RANGEL. Thank you so much for your comment.

You indicated that this was an oversight hearing in which you had a response. I ask the gentleman: Is it your intention to improve the law as it relates to so-called Obamacare or the Affordable Care Act? Is that the purpose?

Mr. BOUSTANY. Reclaiming my time, I believe the law is so deeply flawed, I favor repeal and replacing it.

Chairman CAMP. All right. The time has expired.

Mr. Roskam is recognized.

Mr. ROSKAM. Thank you, Mr. Chairman.

You know, this reminds me of the scene at the end of the first "Indiana Jones" movie where Indiana Jones goes in and he is talk-

ing to the guy from the government, and Indiana says, “Where is the Arc?”

And the guy from the government at the end of the movie says, “We have top people working on it.”

And then the next scene is the Arc of the Covenant going into a giant government warehouse somewhere. This exchange a little bit today, what I have heard from you is basically saying, “We have top people working on this.”

So, Mr. Cohen, when you were asked by Mr. Brady a couple of minutes ago about the nature of the test, when you distill down what you actually said, you actually said to him and to Mr. McDermott, “We have top people working on it.”

Mr. Werfel——

Mr. COHEN. That is not what I said. That is not what I said.

Mr. ROSKAM. I paraphrased it and it is my——

Mr. COHEN. It is not what I said.

Mr. ROSKAM. Mr. Werfel, when you were asked a couple of minutes ago by Mr. Ryan about the claw-back, you basically said, “Do not worry. We have top people working on it.”

And we have had an expectation in this Committee that has actually been driven fairly low by previous witnesses. Previous Administration witnesses have come in with clear-eyed assurances that everything was fine, top people meeting deadlines. Everything is A.J. Squared Away, no problems at all.

And yet today we hear in the exchange that you had with Mr. Levin, and it is your prerogative to have an exchange with Mr. Levin. He asks you questions. You say, “Yes, we will.” He asks you questions. “Yes, they will.”

All right. So my expectations are fairly low, but the best predictor of future conduct is what has happened in the past. So, Mr. Cohen, here is my question.

You are at CMS. It is a universally accepted fact that the payment rate, the fraudulent and erroneous payment rate, at CMS on Medicare is about $40 billion. It is known as “pay and chase.” GAO says that. The Attorney General of the United States, Eric Holder, in a 2012 article in *Forbes Magazine* actually upped the number. He said it was much higher than that.

How can you, with a straight face, come in and give assurances to this Committee that CMS has it all down when you are not even able to give a straight answer about the nature of the test?

What is it that animates the hope in you that you are not going to have the same problems in implementing the Affordable Care Act when clearly CMS has demonstrated it has all kinds of difficulty on Medicare?

Mr. COHEN. Congressman, I see absolutely no connection between the fraudulent payment rate in Medicare and the work I am doing, none.

Mr. ROSKAM. Is that it?

Mr. COHEN. I suspect that you could have any executive of any company come in here and ask him questions about how the IT testing is done on his computer systems and what he would tell you is——

Mr. ROSKAM. He has top people working on it.

Mr. COHEN [continuing]. "I need to refer you to the people who really are expert."

Rather than give you an answer that is wrong—I know you do not want me to do that—I will give you the best answer I can, which is I know that we have testing going on, and I will get back to you with a response to the specific question that Mr. Brady asked, and I am happy to do that.

Mr. ROSKAM. Thank you for doing that.

So the question is: What is it that animates your hope that the activity of your agency that everybody says has this type of fraud rate—you agree with that, do you not?

Mr. COHEN. I do not work on the Medicare program. So I am not involved with——

Mr. ROSKAM. You are not aware of the GAO report? You are not aware of the Attorney General's assertions about fraud in Medicare?

Mr. COHEN. That is not my job.

Mr. ROSKAM. Okay.

Mr. COHEN. I am focused on my job and doing what I——

Mr. ROSKAM. There is some news.

Mr. COHEN [continuing]. Need to do.

Mr. ROSKAM. Are you ready for some news? Here is the news. Your agency has all kinds of trouble as it relates to Medicare fraud, Medicaid fraud, error in payment rates, and what you have basically said is, "We are good."

Mr. COHEN. No. What I said is I see no connection between those issues and the issues that I am dealing with, none.

Mr. ROSKAM. All right. Let me ask you a different question. You said earlier, and I jotted it down; you said earlier that the impact on the employer mandate delay is quite small.

If it is so small, why has it not been fixed in 3 years?

Mr. COHEN. I said that it was small because of the number of employers. Ninety-six percent of the larger employers who would be subject to the employer mandate already offer coverage. So the number of employers who do not offer coverage who will be subject to the mandate is relatively small.

Mr. ROSKAM. But it is a fairly complicated problem that you have not been able to fix yet, right?

Mr. COHEN. That is not my responsibility. It is——

Mr. ROSKAM. What is your responsibility, Mr. Cohen?

Mr. COHEN. My responsibility is to implement the provisions of the Affordable Care Act as it relates to the private insurance market that are under the law given to the Department of Health and Human Services. That is my responsibility. It is not the employer mandate.

Mr. ROSKAM. You have top people working on it. I yield back.

Chairman CAMP. Okay. Mr. Pascrell is recognized.

Mr. PASCRELL. Welcome to guerrilla warfare. Mr. Cohen, Mr. Werfel, thank you for being here today. I know you are answering to the best of your ability.

I would imagine, Mr. Cohen, and correct me if I am wrong, since we are all here to help implement affordable health care for all American citizens, certainly not to undermine the program that is law, has been vilified by the Supreme Court in terms of mandates;

we are certainly not here to undermine it. We are here to help implement it, much like we had the problems when Medicare was first passed in the mid-1960s or Social Security. Both sides came together to try to help to implement the program.

So if healthcare costs grew slower than the rest of the economy for the first time in more than a decade, and the proportion of requests from insurers to State regulators seeking approval of double digit premium increases and private health insurance plummeted from 75 percent—correct me if I am wrong—in 2010 to 14 percent so far in 2013——

Mr. COHEN. That is correct.

Mr. PASCRELL. Now, my question is the following. Is this because of the good feeling of insurance companies?

Number two, is it simply by chance?

Number three, or is somebody manipulating the numbers and all of these things are not right, or what is the reason?

Mr. COHEN. I would say there are a number of reasons, but among them are the increased scrutiny that insurance company rates have been getting as a result of the Affordable Care Act; in particular the medical loss ratio provision over the so-called 80–20 rule which requires that insurance companies spend 80 cents of every premium dollar on actual healthcare costs rather than on administrative costs or profit, which means that if their premiums are too high, they are going to have to pay a rebate back to their enrollees.

Mr. PASCRELL. Let me ask you this question, Mr. Werfel. One of the cornerstones of the Affordable Care Act was the availability of tax credits to make premiums affordable. Can you explain very briefly what tax credits are available for individuals and families, and who would qualify for those tax credits? Just give me a quick synopsis.

Mr. WERFEL. Yes. If there is an individual who does not have affordable healthcare coverage and they come to the exchange, depending on their income level, if they are within 100 to 400 percent of the poverty line, then they would be eligible for support, income support.

Mr. PASCRELL. That is like a sliding scale.

Mr. WERFEL. Yes, yes.

Mr. PASCRELL. Go ahead.

Mr. WERFEL. And, again, I think this is important because it goes to the question of erroneous payments. The premium subsidy that they get goes directly to the insurance company. They never see the money, but they get less expensive premiums.

Now, they can do it one of two ways. They can get it in advance.

Mr. PASCRELL. Right.

Mr. WERFEL. So they can start their enrollment with the exchange and this new insurance company that they are now a part of by getting money up front, money support up front paid to the insurance company, or they can pay their premiums out throughout the year and at the end of the year on their tax form file for a credit to cover the payments they have made. Either one is available to them.

Mr. PASCRELL. Mr. Werfel, that means in New Jersey 990,000, a little above that, 990,000 uninsured individuals with family in-

comes under 400 percent. What is the 400 percent, Mr. Werfel? Four hundred percent of what?

Mr. WERFEL. Four hundred percent of the poverty line.

Mr. PASCRELL. Okay. In New Jersey they are going to be eligible for either Medicaid or subsidized coverage through the exchange. That is the difference it is going to make in the State of New Jersey.

So my good friend from Washington State and my good friend from Louisiana, with all good intentions, good men, good people who have brought a lot to this Committee and a lot to the Congress of the United States, they are not here to help us implement this legislation because we know there is going to be kinks. There are always problems with every piece of legislation. We have never passed the perfect piece of legislation in the Congress. Only God is perfect, not the Congress.

So we try our best to get the best in front of us that we can pass. That is where we are. Why are we not helping each other try to get this done?

I cannot answer that question. It is a mystery to me because they have never denied any of the positive data that we have put before, that anybody has put before with the results of what has happened with ACA already; they have never denied any of those facts.

Mr. BRADY [presiding]. The gentleman's time has expired.

Mr. PASCRELL. Not one fact. Well, you have given people more time on the other side. I only took 30 seconds.

Mr. BRADY. Thank you, sir.

Mr. Gerlach.

Mr. GERLACH. Thank you, Mr. Chairman.

Mr. Chairman, first of all I would like to ask for unanimous consent to offer into the record an August 1, 2013, letter from the National Treasury Employees Union.

Mr. BRADY. Without objection.

[The submission of The Honorable Jim Gerlach follows:]

House:
I am a federal employee and one of your constituents. I am very concerned about legislation that has been introduced by Congressman Dave Camp to push federal employees out of the Federal Employees Health Benefits Program (FEHBP) and into the insurance exchanges established under the Affordable Care Act (ACA).

H.R. 1780 would put federal employees in a special class where they would be prohibited from receiving health insurance through their employer. It would treat federal employees differently from state and local government employees and most employees of large private sector companies who receive health insurance benefits through their employer. The primary purpose of the Affordable Care Act was to provide a marketplace for the sale and purchase of health insurance for those who do not have such coverage – not to take coverage away from employees who already receive it through their employers.

I work hard and am proud of the services that I provide to your constituents every day. One of the main benefits I receive as a federal employee is the ability to purchase health insurance coverage through the FEHBP with an employer contribution towards those benefits. Please let me know your views on this legislation. I look forward to hearing back from you.

Senate:
I am a federal employee and one of your constituents. I am very concerned about legislation that has been introduced by Congressman Dave Camp to push federal employees out of the Federal Employees Health Benefits Program (FEHBP) and into the insurance exchanges established under the Affordable Care Act (ACA).

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I work hard and am proud of the services that I provide to your constituents every day. One of the main benefits I receive as a federal employee is the ability to purchase health insurance coverage through the FEHBP with an employer contribution towards those benefits. Please let me know your views on this legislation. I look forward to hearing back from you.

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Action Alert

Ask your members of Congress to oppose HR 1780.

Take Action

1 **COMPOSE MESSAGE**

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- Your U.S. Senators
- Your U.S. House Representative

Delivery Method:
- Email
- Printed Letter

Subject:
Please oppose HR 1780.

Issue Area:
Certain webform targets require an Issue Area so your message can be directed to the correct staff-person.
Select an issue

Editable text to House:
(edit or add your own text - 8719 characters left)

I am a federal employee and one of your constituents. I am very concerned about legislation that has been introduced by Congressman Dave Camp to push federal employees out of the Federal Employees Health Benefits Program (FEHBP) and into the insurance exchanges established under the Affordable Care Act (ACA).

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I work hard and am proud of the services that I provide to your constituents

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Mr. GERLACH. Thank you.

Mr. Werfel, the information that the IRS will start gathering related to the Affordable Care Act and taxpayer information related to the Affordable Care Act, will the IRS consider any disclosure of that information to be a violation of Section 6103?

Mr. WERFEL. Yes, if——

Mr. GERLACH. To any outside individual or entity or organization?

Mr. WERFEL. If it is done outside of the appropriate rules and regulations, yes.

Mr. GERLACH. Okay. Thank you.

Both Mr. Cohen and Mr. Werfel, this follows up on the question that Mr. Pascrell just asked relative to who is eligible for tax credits that will be available through these exchanges. It was my understanding it was just going to be those that are citizens of the United States or here as permanent legal residents. Are there folks beyond that that are eligible for tax credits, taxpayer subsidies under this program?

Mr. COHEN. You have to be a citizen or lawfully present.

Mr. GERLACH. You have to be lawfully present. What does that mean?

Mr. COHEN. Well, you could be here on a student visa and be eligible.

Mr. GERLACH. Okay. So a student from Germany comes to the United States to do 4 years of college. That student is going to be subsidized by taxpayers for health insurance?

Mr. COHEN. They are eligible for subsidies depending on their income, yes.

Mr. GERLACH. Okay. Somebody comes to the United States on a travel visa, has a visa for a certain period of time, a number of months and perhaps wants to stay longer. Will that person be able to apply for tax subsidized insurance coverage while here?

Mr. COHEN. Well, if they overstay the visa, then no.

Mr. GERLACH. But they are able to apply while they are here legally, lawfully.

Mr. COHEN. I believe so, yes.

Mr. GERLACH. Okay. Are there any other individuals, a battered spouse, child or parent, that might be from another country; is that person eligible for the subsidy?

Mr. COHEN. I am not sure I understand the question.

Mr. GERLACH. Well, I am looking at the eligible immigration status list on page 20 of Appendix B that is on your website as to those who are eligible for this program, and one of the categories is battered spouse, child or parent.

Mr. COHEN. I am just not familiar with that particular status.

Mr. GERLACH. The reason I am asking is because I wonder who makes that determination that the person was, in fact, battered and, therefore, becomes eligible for the program?

And how are you setting up the regulations in this program to have the kind of verification that the people that are applying for the subsidies are actually eligible based upon the structure of the program? How are you going to verify that?

Mr. COHEN. The verification of immigration status is done through data from the Department of Homeland Security.

Mr. GERLACH. Okay. All right. And I know a few other of my colleagues have asked about their particular State. I am from Pennsylvania, from the southeastern part of the State, and it will be a Federal exchange established in Pennsylvania. Do you know the status of that exchange? And will it, in fact, be up and running October 1st in Pennsylvania?

Mr. COHEN. Yes, it will.

Mr. GERLACH. Okay.

Mr. COHEN. And we work very closely, by the way, with the Pennsylvania Insurance Department.

Mr. GERLACH. Have the rate filings been offered and submitted to CMS as part of the establishment of that exchange?

Mr. COHEN. Issuers have submitted qualified health plans to be certified to be offered on the exchange of Pennsylvania, yes, and that——

Mr. GERLACH. So will the average family in my district see the $2,500 reduction in their premium?

Mr. COHEN. I cannot speak to what the rates are going to be. That information will be made public in September.

Mr. GERLACH. You indicate in your testimony that come August 15th, I guess in about 2 weeks, grants will be issued for the Navigator program. Will anybody in Pennsylvania receive any navigator grant monies? Do you know?

Mr. COHEN. I am not involved in the grant award process for reasons that I am sure you can appreciate, but my understanding is there will be navigators in Pennsylvania.

Mr. GERLACH. Do you know how many navigators in Pennsylvania?

Mr. COHEN. The law says that we should have at least two, and I expect that there will be at least two.

Mr. GERLACH. Okay. Thank you. I yield back.

Mr. BRADY. Thank you.

Mr. Price is recognized.

Mr. PRICE. Thank you, Mr. Chairman. I want to thank you for holding this hearing. This is really an important issue, and it is our intention to make certain that the American people have the highest quality of health care available to them.

And our concern is that this law is making it more difficult for them to have access to the highest quality of care.

As a physician before I got to Congress, I can tell you that my former colleagues have an increasing concern about their ability to care for their patients in the way that they deem most appropriate. We heard from our friends on the other side that there are not any alternatives. I just keep reminding them about H.R. 2300, which is a comprehensive piece of legislation, patient-centered health care, that puts patients and families and doctors in charge of health care, not Washington, D.C.

Senator Baucus described or said he was worried about the rollout of this being a train wreck, and what we are seeing today is a documentation of this train wreck. I think there is no doubt about it, as my colleagues have alluded to in so many areas.

Mr. Cohen, you said that your job is to administrate the private insurance market as it interfaces with the ACA. Now, I know that you have not seen the—is that fair?

Mr. COHEN. That is not exactly what I said, but that is okay.

Mr. PRICE. What is your job?

Mr. COHEN. My job is to implement the provisions of the Affordable Care Act as they pertain to the private insurance market.

Mr. PRICE. The private insurance market. Very good. I know you have not seen the *Atlanta Journal Constitution* today. Not many people have. This is the headline in the *Atlanta Journal Constitution* today. "Insurance Options Shrink," sub-headline, "Georgia Online Marketplace to Offer Fewer Choices for Some Consumers."

Parts of the State are going to have one insurance company, one. Aetna and Coventry have announced that they are pulling out of the individual market for the exchanges. That is not the way this was supposed to work. Clearly, access to care, access to coverage is being limited in the State of Georgia, and I suspect it is true in other States across——

Mr. COHEN. No, that does not follow though because the——

Mr. PRICE. Mr. Cohen, there are areas of our State that will have one insurer offering coverage in the exchange. That is not an option. That is a demand. That is a dictate. That is forcing individuals into one program.

Let us get to cost. We had a stakeholder call yesterday with CMS and HHS highlighting that the exchange in the State of Georgia is on track, their words, on track. The State Insurance Commissioner, Mr. Hudgens, has sent a letter to Health and Human Services Secretary, Kathleen Sebelius, stating that some rates in our State are increasing up to 198 percent higher than those plans currently available in the State.

So if the State exchange is on track, is this how it was supposed to work? Are we supposed to have 198 percent increases for individuals in our State for the purchase of health coverage? Is that the plan, Mr. Cohen?

Mr. COHEN. It is not, but I do not know what Commissioner Hudgens is referring to. So I cannot comment as to——

Mr. PRICE. You have seen the rate filings for our State, have you not?

Mr. COHEN. I have not seen the rate filings for Georgia.

Mr. PRICE. Your office has seen the rate filings.

Mr. COHEN. The rate filings have been filed with us, yes.

Mr. PRICE. So I would urge you to please check the rate filings for the State of Georgia, and the fact of the matter is that costs are going up for individuals, not decreasing $2,500 for families as the President promised the American people.

Mr. Werfel, many of my constituents are really concerned about the IRS and the activity that has gone on so far, and you were here earlier documenting the concerns that you had about targeting organizations that were applying for tax exempt status, about the potential leaking of donor information to other groups, and we have huge concerns, and we will continue this conversation about donors that were providing resources to those organizations then being targeted for audits.

You said, "No personal health information will ever be disclosed." That is what you said today.

Mr. WERFEL. We do not have any access to personal health information.

Mr. PRICE. I suspect if you were here a couple of years ago you would have said that no targeting of tax exempt groups or donors will ever occur. So you understand the concern that we have.

I want to ask a question about this whole issue of marketplace. You said that the IRS shares information with 300 different agencies, and you said it only will share this information with the marketplace. What is the marketplace?

Mr. WERFEL. That is the exchange.

Mr. PRICE. So anybody that has access to information through the exchange will have access to——

Mr. WERFEL. No.

Mr. PRICE [continuing]. Taxpayer information.

Mr. WERFEL. No. There are procedures and controls in place to make sure, for example, if someone is on a screen in the exchange working with this information, they will not have access to the raw taxpayer data. The only way the raw taxpayer data can surface is if the individual taxpayer gives consent.

Mr. PRICE. Just like there were procedures in place to make certain that tax exempt organizations were not targeted.

Chairman CAMP [presiding]. All right. Thank you.

Mr. Crowley.

Mr. CROWLEY. Thank you, Mr. Chairman.

Mr. Cohen, Mr. Werfel, are you both familiar with the word "irony"?

Mr. COHEN. Yes, sir.

Mr. WERFEL. Yes.

Chairman CAMP. Alright.

Mr. CROWLEY. Can I enter into the record a definition I got off the Internet? Irony is the use of words "to convey a meaning that is the opposite of its literal meaning; an expression or utterance marked by a deliberate contrast between apparent and intended meaning."

The hearing notice we received, a hearing on the status of the Affordable Care Act implementation—I would actually think my colleagues on the other side of the aisle are interested in how the Affordable Care Act will be implemented. Yet tomorrow, we will have the 40th attempt to undo the Affordable Care Act, to derail it. And, in fact, they will go after, Mr. Werfel, your agency and deny funding to your agency, for the purposes of carrying out what is your responsibility under the law, under the Affordable Care Act. Is that not true?

Mr. WERFEL. That is my understanding.

Mr. CROWLEY. Do you think it is ironic that we are having this hearing today?

Mr. WERFEL. I am not sure how to answer that question. I will answer it in this way. The—in the nature of the questions that I have been taking—like, for example, how do we address issues related to potential fraud—my goal has always been to partner with Congress to——

Mr. CROWLEY. You would think they would actually care about the implementation of this bill.

Mr. WERFEL. I would like to partner with this entire Committee on solutions the IRS can deploy and——

Mr. CROWLEY. Mr. Werfel, Mr. Cohen, do you know what I think? I think they realize that maybe they won't be successful tomorrow in actually undermining the Affordable Care Act, that they may have a one-House bill that, once again, would do away with the Affordable Care Act, but it will not become law.

And somehow they must know that the implementation of this law maybe is important to the American people. But they, once again tomorrow, will fail the American people and themselves when they are not successful in actually undoing this law. But they have a responsibility, I guess, to ask the proper questions about the implementation.

What I find really ironic in one respect is that my colleague, Illinois, was concerned about the true-up. Yet their side of the aisle has attacked the ability of the middle-class and the working people of this country to access the tax credits to the Affordable Care Act on a number of occasions. Never once have I heard them stand up and defend the interests of the working people of this country, who, for the first time, many of them, have the ability to afford health insurance in this country.

Mr. Cohen, in terms of what would be helpful from Congress to aid with smooth implementation, are 40 repeal votes what you would consider being productive?

Mr. COHEN. I don't think they move the ball forward, in terms of my job, no.

Mr. CROWLEY. And I will ask this question of both you, Mr. Cohen, and Mr. Werfel. Will tomorrow's 40th repeal vote to block tax credits from going to working families help with the implementation of the Affordable Care Act in any way?

Mr. COHEN. No.

Mr. WERFEL. I don't think it will have any impact.

Mr. CROWLEY. Mr. Cohen, I would like to clarify one of the issues brought up earlier. There was talk of the hub that will verify transactions in the marketplace. Can you clarify, will any personal data be stored on the hub?

Mr. COHEN. No. The hub just routes information from the secure data sources: IRS, Social Security, et cetera, so that we can verify information that people put on their applications.

Mr. CROWLEY. Mr. Cohen, would you say that Members of Congress can be of assistance to their constituents as enrollment in the marketplace gets underway?

Mr. COHEN. Absolutely. It would be wonderful if all Members of Congress would put out helpful, accurate information for their constituents so that they can understand the benefits of the law and how to——

Mr. CROWLEY. And Members of Congress would be a good resource for their constituents with questions or to help direct them to resources. Wouldn't you agree?

Mr. COHEN. Definitely.

Mr. CROWLEY. When the Medicare Part D bill was passed, and I voted against it, and we went through a political charade of almost 4 hours on the floor to pass the bill, a lot of political armtwisting took place. I didn't agree with that bill, I fought against the bill's passage. But when it came to implementation, I never

once didn't help a constituent access the benefits—although I thought they were limited—to that particular bill.

Do you think it would be wrong if Members of Congress were not to help their constituents with the implementation of a law, when enacted, if asked?

Mr. COHEN. I would hope and expect that all Members of Congress would help their constituents get the benefits of the Affordable Care——

Mr. CROWLEY. Mr. Werfel, do you agree, as well?

Mr. WERFEL. I am not going to comment on how the Member deals with their constituents.

Mr. CROWLEY. Okay, I appreciate that. Mr. Chairman—oh, my time is up, I will yield back.

Chairman CAMP. All right. Mr. Smith is recognized.

Mr. SMITH. Thank you, Mr. Chairman and Mr. Cohen, Mr. Werfel, thank you for being here today. In the context of my questions is my concern that the healthcare law will actually hurt the very individuals it was intending to help.

But, Mr. Cohen, can you briefly explain the training for these navigators? How long do you anticipate this training to take?

Mr. COHEN. Sure. It is an online course, a series of courses. It is expected to take about 20 hours. That is comparable to what many States require insurance agents and brokers to do before they are licensed to be able to be insurance agents and brokers, and it will cover——

Mr. SMITH. Now, the licensees in the private sector are required to take exams and maintain continuing education. And I would argue that it is a little more burdensome than just a 20-hour training course.

Mr. COHEN. Well, the training course includes a series of tests as you go through the material, so you do have to answer questions and, you know, be successful in passing those tests in order to get to the end and——

Mr. SMITH. Okay, thank you. Mr. Werfel, I think it is fair to say that the protection of private information remains an unresolved issue at your agency. Are you confident that these data hubs can truly protect private information? I mean, I would expect you to say yes, but do—are there not unresolved issues relating to private information?

Mr. WERFEL. Let me answer it this way. We have a—I mentioned earlier we have a strong track record here. Let me put some numbers to that of—I said earlier that we provide, under normal operating business, and under the law, the taxpayer information to 300 Federal and State agencies. That is 8 million records a year, okay? Last year, we know of 24 incidents of this type of breach, where the information got into the wrong hands. So that is 24 out of 8 million.

Now, every single one of those 24 incidents is concerning. And every time one of them happens, we make an assessment in terms of whether it was advertent or inadvertent, and we have a lot of reaction to try to churn and make improvements. The point I am making is that we have a historical track record of success in establishing safeguards to protect this information. It is imperfect.

But where there is a breach we take our responsibilities very seriously to correct them, going forward.

Mr. SMITH. But some of those—many of those situations remain an unresolved issue. Is that accurate?

Mr. WERFEL. In some cases, where they are still being investigated, we may be still evaluating what changes we need to make to prevent them from happening again.

Mr. SMITH. Okay. Now, we heard earlier that perhaps there would be some subsidies offered individuals through their insurance plan. But certainly an undue subsidy would exist. And the necessity to recapture that undue subsidy, can you tell us briefly how that would be recaptured?

Mr. WERFEL. Well, I think there were two things. First, you apply for a subsidy and you provide certain income information, and you are essentially predicting what your income information is going to be if you are applying for an advanced credit. You are saying, "When I get to file my taxes in 2015 for the 2014 tax year"——

Mr. SMITH. It is based on prospective income, correct?

Mr. WERFEL. Yes, you need to——

Mr. SMITH. And that could change.

Mr. WERFEL. That could change.

Mr. SMITH. It could increase.

Mr. WERFEL. So you are relying on recent data to try to make a projection of what your income is going to be when you are applying for an advanced credit. So after we go through the whole year, now we know, at the end of that year, as the taxpayer is sitting down to file, what their actual income was.

And so, we do a true-up or a reconciliation to see maybe if they should have been given more premium support, maybe they were given too much, and then we will do that true-up and work it out with the taxpayer.

Mr. SMITH. Would you characterize that recapture as a tax increase?

Mr. WERFEL. It could be that the taxpayer could owe more. It could mean that they could be due a higher refund. It depends on——

Mr. SMITH. Would you characterize that as a tax increase?

Mr. WERFEL. I don't think I would call it a tax increase, no, because the individual is coming in for a benefit. It might be a smaller benefit than they anticipated, but it is a benefit.

Mr. SMITH. Okay. I mean, we heard last year, I think it was, that in the repeal of the 1099 mandate, the pay-for was a recapture of the subsidies, undue subsidies, in the exchange. And we were told in a pretty loud tone that would be a tax increase. I certainly would dispute that.

Mr. WERFEL. And there might be—and we might be just talking past each other in terms of characterization. It is real money——

Mr. CROWLEY. Will the gentleman yield?

Mr. SMITH. My time is limited, thank you. But my concern is that this creates confusion, it adds to the complexity. And certainly, as the exchange of information is out there, an increase to that, an increasing exchange of information, the more errors will occur.

So, thank you. I yield back.

Chairman CAMP. All right. Thank you. Mr. Paulsen.

Mr. PAULSEN. Thank you, Mr. Chairman. Obviously, the law is complex and confusing in many respects. Mr. Cohen, until July 2nd, which is just earlier this month, the Administration was telling all individuals who worked more than 30 hours a week, "We are going to make your employer provide healthcare coverage. And if they don't, you will get health care and a subsidy on the exchange."

Mr. COHEN. No, that is not true. Large employers were subject to that.

Mr. PAULSEN. Large employers. Okay. Now, that——

Mr. COHEN. Small employers are never subject.

Mr. PAULSEN. Okay, and that—but that is no longer true for 2014, right? An employer does not have to offer coverage any more.

Mr. COHEN. That is true. But as I have said, 96 percent of them already do.

Mr. PAULSEN. But many individuals—so these individuals are now going to have to go into the exchange in 2014, all next year, in order to get coverage. And a lot of these folks have already seen their hours slashed, they are cut back, businesses are attempting to comply with the 30-hour rule.

I even heard from, in my district, cities that are concerned about volunteer fire departments that are now—it is affecting their ability to employ volunteer firefighters because they are on call, and there are concerns that if they are on call for over 30 hours a week, or their work hours are over 30 hours a week, the city may have to provide health insurance, and that could cost hundreds of thousands of dollars.

Mr. COHEN. That seems unlikely.

Mr. PAULSEN. Well, these are all the concerns that are being raised now as a part of the complexities of the law. Clearly, that is out there. So——

Mr. COHEN. That seems like an unlikely scenario.

Mr. PAULSEN. And I will follow up with you on that to make sure that we can clarify——

Mr. COHEN. You are talking about a volunteer.

Mr. PAULSEN [continuing]. For that city. Now, again, this is confusing, it is disruptive to people's lives. I mean, is this fair for employers, or their employees, that are trying to comply with this 30-hour rule? People have had their hours cut back.

Mr. COHEN. We are going to make it possible for millions of people who have been unable to have insurance previously to get health insurance. That is what we are doing.

Mr. PAULSEN. Mr. Werfel, let me ask you this, because you acknowledged earlier that there have not been delays in some of the implementations of the various tax and revenue raisers that have gone forward that the IRS administers. And the IRS has not delayed the medical device tax, of course, which the Joint Committee on Taxation says the costs from which are going to be passed on to consumers and passed on to businesses in the form of higher premiums.

Has the IRS done any analysis at all as to the financial or the administrative impact that is being placed on firms due to the tax?

Mr. WERFEL. We would certainly look at administrative impacts, because part of our goal is to help work with taxpayers to reduce burden and give them electronic services, and all the kinds of things we do with taxpayers to improve their taxpayer service with the IRS.

Mr. PAULSEN. Does the IRS have any sense of the problems that have been faced by some of the companies in trying to comply with the tax so far?

Mr. WERFEL. The taxes like medical device——

Mr. PAULSEN. The medical device tax, specifically.

Mr. WERFEL. I would want to get back to you. I can talk to my team about anything they are hearing in terms of specific problems. I don't have them at my fingertips.

Mr. PAULSEN. Okay. In addition to the cost of the tax, would you agree that the cost of compliance, as the Joint Committee on Taxation says, would also have a negative impact on patient care?

Mr. WERFEL. That is a policy call. I really can't make a judgement on that.

Mr. PAULSEN. I know that recent surveys among the companies that have had to comply with the tax have indicated that the cost for just the compliance side, not on the revenue aspect of it, because we passed the $1 billion mark earlier this month, but the compliance costs have been estimated to be somewhere around $667 million, actually, $667 million so far. That is in addition to the billions of dollars that are being diverted from maintaining and creating good quality jobs and high-tech innovation, et cetera, and research and development.

And, Mr. Cohen, let me just do one followup, too, because you mentioned you have seen the rate filings in the different States. Now, is Minnesota set to comply on October 1st for having their exchange ready?

Mr. COHEN. Yes. Minnesota is operating a State-based exchange, and they are doing well, and it will be operating in Minnesota.

Mr. PAULSEN. Okay. Have you seen the rate filings, or has your office seen the rate filings for the plans being offered in Minnesota?

Mr. COHEN. We wouldn't have, since the State—it is a State-based exchange. That is—the State is running the exchange. They will make them public whenever they make them public.

Mr. PAULSEN. Okay. Can you say whether the average typical family would see a reduction in their premium of, again, the $2,500, which is the typical family?

Mr. COHEN. I don't know what the rates are going to be in Minnesota, no.

Mr. PAULSEN. Okay. Thank you, Mr. Chairman. I yield back.

Chairman CAMP. All right. Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman. I also want to thank the witnesses for being here.

You know, I have listened to the discussion all morning. And it came to my mind that I have never seen the implementation of a new system, a new program, or a new law that covers the entire country, without there being some glitch or some glitches. It also occurred to me that the only perfection that I have ever seen were

Egyptian mummies. And, of course, they didn't move. They remained as they were.

I would imagine that if we were to ask one of the more than 30 million individuals who, until now, had no access to health insurance if any of the reasons that we have heard this morning would be a reason to do what I call throw out the baby with the bath water because it is not as clear as we would like for it to be, I think the debate—and, of course, tomorrow we will vote on something, and we will not necessarily vote on what we are hearing today, because that is not exactly the purpose. Today, we are looking for perfecting ideas. I mean, how do we make the Affordable Care Act more effective? How do we improve it? How do we make sure that there are fewer glitches, as the implementation occurs?

Let me ask you, Mr. Cohen, if we look at what has already taken place—I mean, not what we are talking about will happen in the future, but we have already seen a slowdown in healthcare cost growth in both national health spending and in Medicare. This week, the Council on Economic Advisors announced the slowest growth in health spending in 49 years.

The only thing that I have heard year after year after year after year has been the increasing costs of health care, that we are spending more money and getting less. I am told that insurance companies now must spend at least 80 percent of their premiums on medical care, not other kinds of things. In 2012, Americans have saved $3.4 billion. That is a lot of money, even in Chicago, Illinois, where I live. That is a lot of money, $3.4 billion saved, and another $500 million in rebates.

Could you share some additional benefits that we have already seen from the Affordable Care Act?

Mr. COHEN. Certainly, I would be happy to. There have been 3.1 million young people age 26 and below who have been able to get insurance through their parents' employer coverage; 71 million Americans who have gotten expanded access to preventative services at no cost to them; 27 million women included in that who have gotten guaranteed access to additional preventative services without cost sharing; and 17.6 million children who have pre-existing conditions and now can't be denied insurance coverage as a result of the Affordable Care Act.

Mr. DAVIS. Let me tell you, those kind of benefits—I mean, we can nitpick about verification. We can nitpick about anything that we come up with. But the reality is the American people want to see implementation of the Affordable Care Act. And that is what we are going to get. I yield back.

Chairman CAMP. Thank you. Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman. For 3 years now, we have been monitoring, in our office, the phone calls, the emails, and the letters about the Affordable Health Care Act. Ninety-five percent of the correspondence that I get from my constituents is against Obamacare. It is against the implementation. So, as a representative of my district, some of the questions I will ask are going to reflect that.

When I look at this application, when I have looked through the entire application, and have listened to the testimony that we have had today—and I want to thank the Chairman for having this im-

plementation hearing—I am finding out that not only after my constituents are told that they are going to be breaking the law if they don't have health insurance, and if they don't fill out this application they are going to owe a penalty, and they get to the middle of this application and they find that this application asks them for some very, very personal information, and asks them about, actually, almost every bit of their financial life, now my constituents are very alarmed with all of the headlines about information being shared about their phone records, information being shared about their emails. They are alarmed. They are concerned that the government is learning way too much about their private lives, and that the government is sharing way too much of that information.

You can't be anything but alarmed after going through this application and then hearing today in this hearing that this information is going to be shared with State insurance agencies, it is going to be shared—it is going to be gathered by navigators who may be making $10 or $12 an hour, it is going to be shared with private insurance carriers, and that these private insurance carriers are going to be able to access information from the IRS. And they are alarmed.

And nowhere in this document does it say that, by law, the Supreme Court has said that you do not have to take this insurance, that you can, in fact, pay a penalty.

Mr. COHEN. Congressman, I would like to work with you to ease your constituents' concerns, because no one has to provide any information about themselves unless they want a benefit, unless they want a subsidy. They don't have to provide any information whatsoever.

What the law says is your individual, personal responsibility is to have health insurance coverage.

Mr. MARCHANT. In order to follow the law, they must fill out this application, or be——

Mr. COHEN. Well, I hope you will explain to them that is not true.

Mr. MARCHANT [continuing]. Or be in violation of the law and pay a penalty.

Mr. COHEN. Well, I hope you will explain to them that is not true, because it is not true.

Mr. MARCHANT. Americans want to follow the law, they want to do the right thing. And they are going—and I believe they will go to this application because they feel like they must, to follow the law.

Mr. COHEN. The application asks whether you want to receive a subsidy. And then, if you say yes, you go on to provide income information. If you don't want to receive a subsidy from the government to help pay for your health insurance, you don't have to tell us anything. Go out and buy health insurance.

Mr. MARCHANT. If a responsible family fills this application out, how can it be assured that this information will not be shared with some clerk at Aetna Insurance Company, and that then the clerk will have access to go to the IRS and find out whether the information you gave in that is correct, or——

Mr. COHEN. You can——

Mr. MARCHANT [continuing]. Some navigator sitting out at a tax-exempt organization that has a contract——

Mr. COHEN. You can assure them that Aetna Insurance Company will never see their personal information with respect to what their income is, never, based on filling out this application.

Mr. MARCHANT. But we have had testimony today that says that the number of people that are going to receive personal IRS information is going to be significantly expanded. And you are saying that only if you desire this benefit will you then, de facto, be giving permission for this information to be shared.

I am reflecting the concern of the people that live in my district about the——

Mr. COHEN. And I would like to help you alleviate that concern, because it is based on a misunderstanding of how this works.

Mr. MARCHANT. Why does, at the very end of this application——

Mr. COHEN. The insurance company doesn't get this application.

Mr. MARCHANT. Why, at the very end of this application, does it give instructions on how a person can go register to vote?

Mr. COHEN. Because Congress passed a law that says that whenever the Federal Government provides a benefit to people, it needs to provide an opportunity to let people know how to register to vote. It is called the motor voter law.

Mr. MARCHANT. We also need to——

Mr. COHEN. That is a law that Congress passed, and we follow it.

Mr. MARCHANT [continuing]. Let people know that a person does not have to fill this application out by law.

Chairman CAMP. All right, thank you. Time has expired. Ms. Black.

Ms. BLACK. Thank you, Mr. Chairman. I want to thank you for having this very important hearing.

Mr. Cohen, I want to just get right into the questions, because just 3 weeks ago, we had, by rule, a statement that said you were not ready to fully verify income. What has changed in those 3 weeks?

Mr. COHEN. What has changed is that we have looked at our process, and we have confirmed that we are able to verify income for 100 percent of the applicants who will be submitting applications to the marketplaces.

Ms. BLACK. You can verify for one to two percent?

Mr. COHEN. One hundred percent.

Ms. BLACK. One hundred percent.

Mr. COHEN. Yes. We will be verifying——

Ms. BLACK. So, if that is the case, I am really curious how, in just 3 weeks, with a rule being put out just 3 weeks ago to say we do not have the technology to be able to do that, and yet 3 weeks later we are now seeing, oh, all of a sudden we have the technology to do that.

Mr. COHEN. No.

Ms. BLACK. How did that happen?

Mr. COHEN. That is not right. We said we were going to sample, and now we have concluded that the sample size is going to be 100 percent.

Ms. BLACK. Okay.

Mr. COHEN. We always said we were going to do it, we just said we were going to do some. Now we are saying we can do all.

Ms. BLACK. I don't have the rule right in front of me, Mr. Cohen, but it did say that you did not have the technology to implement. And I don't have it right in front of me. But let me go to my next point.

On April 12th, here in this Committee, in a Ways and Means Committee, Secretary Sebelius claimed 15 times there would be no further delay in this law. And yet, the first of July we got a rule that said there would be a delay of the employer mandate, and that there would be a delay in the income verifications. And I just find that really interesting, that it was stated 15 times in our Committee that we are not going to have a delay.

And now, Mr. Werfel, you claim that you are making efforts to verify the employer-sponsored coverage. You are making efforts?

And, Mr. Cohen, you now tell us that tomorrow we are going to receive a new rule on the income verification. We are 60 days out. I don't think you all are ready. I really don't believe you are ready by what you are telling us here, that you are making efforts. This is 3 years worth of work. And we were told by the Secretary there would be no more delay. So, I think that you can't have it one way and then something else comes up.

But let me go to Mr. Cohen on this one. Can you tell me what the role of Equifax and other contractors will be on these recently signed contracts that you have with them on verifying and providing 100 percent?

Mr. COHEN. Sure. Equifax is a source of data from employers that we will be checking the information that people put on an application against in circumstances where we can't verify the information that has been provided from IRS data. We will check it against Equifax data, because that is a current source of how much people are getting—earning that exists, not for all employers, but for many employers. So it is another source of data that we can use to verify employment.

Ms. BLACK. So you are saying in this Committee today that 100 percent of the applications that are filed will have a verification of their income through whatever source, whether it is Equifax—do you have another contract besides Equifax that you use——

Mr. COHEN. And then, if we can't verify against the sources that we have available, then we request documentation from the individual. They will have to provide us, for example, with pay stubs.

Ms. BLACK. Okay. So, quickly, I want to go—because I know my time is going to run out here—I want to go to the whole claw-back issue. Because, Mr. Cohen, you mentioned earlier the IRS is supposedly going to be clawing back any fraudulent payments when people file their tax returns, and somehow the Administration thinks this is going to deter fraud.

But, Mr. Werfel, this question is for you. Can you please explain to the Committee to what degree the IRS has been able to recover fraudulent payments that have been made through similar advanced tax credits in the earned income tax program and also the educational tax credit?

Mr. WERFEL. Well, a couple of things in terms of the clawback, to clarify, because there is a difference between the earned income tax credit and here. And again, I made the point earlier. The taxpayer doesn't actually receive funds. The funds go to the insurance provider.

Ms. BLACK. I understand that.

Mr. WERFEL. And that is important, because——

Ms. BLACK. But that is still money that goes out the door.

Mr. WERFEL. I agree.

Ms. BLACK. Those are Federal dollars——

Mr. WERFEL. I agree.

Ms. BLACK [continuing]. That the hard-working taxpayer is paying. And that is—and I know my time is going to run out here, but $11 billion were fraudulently doled out—by the Inspector General's report—in the earned income tax credit, $11 billion a year, and $3 billion in the education tax credit. And he testified in this very Committee that they have been—and these are his words—"incredibly unsuccessful in clawing back that money."

Mr. WERFEL. I know we are running out of time. Let me commit to work with your staff, if you will allow it, to explain the procedures that we have in place to get money returned to the IRS in the earned income tax credit, and how it is going to work in the ACA.

Ms. BLACK. Would you please do that?

Mr. WERFEL. I will.

Ms. BLACK. Because, as I said, this is absurd. We are 60 days out from full implementation, 3 years later, we are still rewriting this train wreck.

Chairman CAMP. All right.

Ms. BLACK. And it is time that this Administration admits it is not ready and we need to delay this train wreck.

Chairman CAMP. All right.

Ms. BLACK. I yield back.

Chairman CAMP. And, Mr. Werfel, I realize you are relatively new to the position, but I want you to know, with these improper payments, I have been raising that issue with the previous commissioners of the IRS for several years, and not gotten concrete proposals on how this Committee might be able to address the problem of improper payments. And that is why there is a concern here. But——

Mr. WERFEL. My commitment would extend to you and your staff, as well, to roll up sleeves and talk about the issue, absolutely.

Chairman CAMP. All right. Mr. Larson.

Mr. LARSON. I thank the Chairman. And I thank our witnesses for being here this morning. And I want to commend our Chairman. As this Committee has conducted business over the last several—this past year, in fact, and before that, our Chairman is to be commended for the bipartisan nature of which we have done things together.

This hearing, however, today does not take on that same feeling. In fact, I will bet at one point or another Mr. Cohen and Mr. Werfel might have felt like this was part of an inquisition rather than a hearing. But I assure you there are no Torquemadas on the other side; they are indeed good people. And it is unfortunate that, like

the way in which we are working on tax reform, we couldn't be working on constructing the Affordable Health Care Act in a way that serves people.

Just quickly, without the Affordable Health Care Act, all of the provisions that you talked about that people are currently enjoying, what would happen to them? They would not be there or available to the 3.1 million people who receive specific benefits, the 17.6 million children, or the 71 million elderly in preventative care. That would all be gone, correct?

Mr. COHEN. If the law were to be repealed, yes.

Mr. LARSON. If it were to be repealed. The goal here is to repeal. There is no substitute, there is no replacement.

What would insurance costs be without this Act? What was the trend with respect to insurance costs?

Mr. COHEN. Insurance costs, health insurance costs, were going up at a much higher rate before than they are now.

Mr. LARSON. That is, in fact, true. And so, now, with the exchange coming on, the truth of the matter here is that what we have is not something that CMS oversees, like Medicare, which is single payer—and many on our side would have preferred either a single payer system or Medicare-for-all-system—what we have is an amalgamation of different systems. But it is primarily the seed of an idea that was put forward by the Heritage Foundation, an idea that was then implemented by a Republican Governor in a Democratic State. And, as you heard Mr. Neal say, done very successfully because Democrats and Republicans worked together to put this through.

And now we have an opportunity to take the very best of public health, the very best of science, technology, and innovation, and the very best of entrepreneurialism, and drive down the most inefficient business in this country, which is healthcare delivery. I repeat. The most inefficient business.

And so, we have the tools and the techniques that the other side should be joining with us to use that, by the way, would drive down the national debt, would make health care more accessible, affordable, and create a new paradigm where patient outcome and wellness is the goal, not so much the delivery in a hodge-podge manner. And it is because the private sector now is coordinating care under the Affordable Health Care Act that we see the tremendous opportunity for great gain.

But instead, here in Congress, we persist on playing tastes great, less filling. We see yet the 40th time that a bill is going to be repealed, dragging before us again people from the various agencies, instead of saying, "How can we work together," trying to play gotcha and what is going to go wrong within the agency. The American people are fed up with this. We are going to go through this charade one more time before we exit, because it is a political point that has to be made.

But what the American people want to see is affordable health care, is the deficit paid off. We have the framework, the context to do it. My God, Mr. Chairman, let's work together to get this done. Let's use these agencies. Let's not go after these people who are trying as hard as they can to get an Act in front of the American people that will allow them and assist them to get the healthcare

coverage that they need. This is a good thing for the American people, and it is something that we should be working on together, not fighting with one another over. Thank you, Mr. Chairman. I yield back my time.

Chairman CAMP. Thank you. Mr. Young is recognized.

Mr. YOUNG. Thank you, Mr. Chairman. Thank you, gentlemen, for being with us today. I am concerned about the adverse impact that the Affordable Care Act is going to have on our hourly employees. There has been a discernable and dramatic shift from full-time to part-time work in recent months. Schools, colleges, cities, and restaurants throughout my district in Indiana have reported this on the ground to me. But this is not just anecdotal evidence that I have.

You look at the national trends. According to the Labor Department, since January roughly 100,000 fewer Americans are working full-time. The June Jobs Report indicates that 322,000 people have seen an increase—there has been an increase by 322,000 people—in the number of Americans who want to work full-time but can only find part-time work.

So, what is driving this trend? It is the Affordable Care Act, in large measure. You have employers that are chopping up their full-time positions into part-time positions, so that they can stay under that 30-hour threshold, which is mandated under the so-called employer mandate. An employer mandate is driving up costs on businesses, estimated—according to our Federal Government—at $106 billion.

And, you know, there are a number of people who are living from paycheck to paycheck that I talk to on a regular basis who are not just hurting, they are angry. They are angry at those who put this law into place and those who are implementing it. And they want reforms.

And so, I do come here in the spirit of partnership to try to identify those reforms. I would note that President Obama has already signed seven of the so-called partisan and meaningless bills, which he, on a regular basis, despises in his speeches. He has responded to the employer community by delaying the employer mandate. These are both actions that the President has taken. I wish he would also extend mandate relief to individual rank-and-file Americans and their families by also delaying the individual mandate.

But I am going to ask you a few pointed questions here. Do you think that the Administration could support, as another possible measure, repealing the new definition of full-time of 30 hours, which it has never been popularly understood to be, and restoring the traditional 40-hour definition, as it applies to this Act?

Mr. WERFEL. I will start by saying I am just not the right government official to answer that question. I think I would defer to Treasury on those types of policy calls.

Mr. COHEN. Right, that is not mine, either, I am afraid.

Mr. YOUNG. Okay. Well, the Tax Code, of course, is your forte, so I will ask you this. Can you point to any other places within the Internal Revenue Code where full-time is defined as being 30 hours a week?

Mr. WERFEL. I will look into that and get that answer for you. I don't have it at my fingertips.

Mr. YOUNG. I believe I know the answer.

Mr. WERFEL. Okay.

Mr. YOUNG. I am not the Commissioner of the IRS, I am not the guy in charge, but I think the answer is no, it has never been defined as 30 hours, and that is why the American people understand it to be something much higher than that.

Do you believe a 1-year delay of the employer mandate, as you consult with your bosses—do you believe that is going to stop this trend of reducing the number of hours that our hourly employees are receiving, from 34 hours down to, say, 29 hours, the so-called 29er effect?

Mr. WERFEL. I am not sure. I mean, what we are hearing from employers is they wanted an opportunity for two things; to talk, have more time to work with the Treasury Department and the IRS around how these regulations are constructed and how the reporting provisions will exist; and they also wanted more time to develop and ramp up their technology and process solutions to meet the new requirement.

Now, whether that then, in turn, has other impacts on their business, I would imagine it would. I don't know what impacts it might have on their business, but a directive we had from them is more time to both work with us on the requirements themselves and give them time to develop the systems needed to meet those requirements.

Mr. YOUNG. Well, we have another Jobs Report coming out on Friday and others to follow. So we will see whether or not this 1-year delay has any impact on the reduction of number of hours, and thus wages, of these workers who are on the margins of our economy. Thank you, and I yield back.

Chairman CAMP. All right. Mr. Renacci.

Mr. RENACCI. Thank you, Mr. Chairman. I thank the gentlemen for being here. I know it has been a long day so far.

But, Mr. Cohen, help me out with my constituents. You know, I represent a district where I was a businessman there for almost 28 years before coming here. You made a statement that I wrote down. It said health insurance rates were going up at a much higher rate than they were——

Mr. COHEN. They have since, yes.

Mr. RENACCI [continuing]. Since the Affordable Care Act. But when I go back home, and I go back to those same businesses, and I remember when I operated them, health insurance costs were going up, they were going up 7, 8, 9 percent, sometimes 11. Today 32, 52—63 is one of the percentages I have gotten from some of those businesses that I dealt with.

Explain to me—tell me what I should be telling them, because you just said healthcare costs are going down. But that is not what is happening in Ohio, by the way——

Mr. COHEN. Well——

Mr. RENACCI [continuing]. Which, as you know, is expected—premiums are expected to increase 88 percent.

Mr. COHEN. So, obviously, I am talking about, you know, averages across the country. I am not talking about a specific business in Ohio, so I can't necessarily speak to——

Mr. RENACCI. I am talking about a district, too. I am talking about an area——

Mr. COHEN. I am not talking about a specific district in Ohio. But one thing you can tell them that is a real benefit to small businesses under the Affordable Care Act, once it is fully implemented in 2014, actually there are two things.

Traditionally, businesses with high—in higher-risk types of employment, say construction workers, the cost of healthcare coverage for them was extremely high, because they could be up-rated based on an industry factor. They can't do that anymore, beginning in 2014.

The second thing is that, for smaller employers, if you had one employee with high health costs, you could be up-rated because of the health condition of that one employee. They can't do that anymore after 2014.

So, there are some benefits that are going to come into effect starting next year that are going to have a real significant impact on the cost of coverage for small business.

Mr. RENACCI. So you would—you are saying hold on, it is coming, even though they are experiencing all these high rates.

Mr. COHEN. Well, not all the provisions have gone into effect. But beginning in 2014, these will.

Mr. RENACCI. Well, again, just so we know, I mean, that is kind of the comments you have been making today, that, in general, costs are coming down. I am afraid my district is not experiencing that.

Mr. Werfel, regarding the data hub, you know, my constituents, my colleagues—I am even somewhat concerned. We talk about sensitive taxpayer information being prepared for October 1st, you know, having this all ready. You said you are going to have everything ready October 1st. Correct?

Mr. WERFEL. With respect to the transmission of tax data through the hub to the exchanges, yes.

Mr. RENACCI. Would you be willing to demo that system for Members of this Committee in September, before it is—before you implement it?

Mr. WERFEL. I will consult with my staff to make sure that something like that can be done. But anything we can do to provide you more information on how the process will work, and to give you assurances about what we are doing, I am committed to that.

Mr. RENACCI. Well, if it is ready to go October 1st—you are saying it is going to be ready to go October 1st?

Mr. WERFEL. It is absolutely ready to go October 1st. Yes, I think——

Mr. RENACCI. Unless there is——

Mr. WERFEL [continuing]. We just have to work out what you mean by "demo." But, yes, we will get you what you need in order to understand exactly how the process works, and we will work, in terms of what the demo looks like. But, yes, I am committed to do that.

Mr. RENACCI. So sometime in September we could expect that?

Mr. WERFEL. Yes. We will work with—I will have my staff work with yours.

Mr. RENACCI. Can you tell me how much the Department has spent to date to implement this new system?

Mr. WERFEL. I do have statistics for the various costs of the systems. There are a variety of different systems involved. But as an example, you know, in terms of the transactional portal, the gateway for data passing to and from IRS, $3.1 million spent to date. I mean, I can go through all the numbers, but I think what might be helpful is for me to just give you a rack-up, a detailed rack-up, of costs to date or by fiscal year. And I can provide that information to you.

Mr. RENACCI. All right. I would appreciate that.

Mr. Cohen, can you explain? I know you have said a number of times that the exchanges will be ready to go on October 1st. What is the back-up plan if they are not? Do you have a back-up plan, or is there—I mean——

Mr. COHEN. Well, there is no "if not." I mean, people will be able to go online and submit their data and enroll in coverage. There are—you know, we will be sure that the opportunity to get enrolled in the coverage will be available. I mean——

Mr. RENACCI. There is no back-up plan?

Mr. COHEN. Well, we have a lot of different procedures in place to make sure that is possible, but there is no "it's not going to work." It is going to work.

Mr. RENACCI. All right. And, Mr. Cohen, you have said a number of times today, too, that you are going to do 100 percent verification of income.

Mr. COHEN. Right.

Mr. RENACCI. One hundred percent. That is a—I just want to make sure. Now, when you say that——

Mr. COHEN. Yes.

Mr. RENACCI [continuing]. Are you talking about, in verification—and I am a CPA, so sometimes——

Mr. COHEN. Okay.

Mr. RENACCI [continuing]. You verify by looking at this document, that document. You know, someone—if you go to Equifax, and they give you an incorrect number, but it is the number they gave you, are you going to call that verification? I am just trying to get——

Mr. COHEN. We are going to compare the information that the applicant gives us against available data sources: IRS, SSA, Equifax. And then we are going to see if we can verify that way. If we can't, we are going to get additional information from the applicant, such as pay stubs.

Mr. RENACCI. So a year-and-a-half from now, if you come back, you will be able to testify you have verified 100 percent?

Mr. COHEN. Well, that is the system we are designing, so——

Chairman CAMP. Time has expired. Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I am intrigued by my friend from Ohio talking about 88 percent premium increases, because we are seeing States that are working to try to implement the legislation, and are doing so in aggressive and thoughtful action, and are actually seeing the opposite. We are seeing reductions in New York, reductions in California, reductions in the State of Washington.

Mr. Chairman, I would like unanimous consent to enter into the record what is happening in Oregon in terms of lower costs, better care. One of the problems in some of these States coming up with the scare tactics is people are actually not comparing apples to apples. They are not comparing health care that no longer has preexisting conditions, no longer can cherry-pick in terms of inadequate coverage that previously people had.

And I am—I find this unfortunate. But I find it entirely consistent with what has happened in this Committee. When we had the Prescription Medicare Drug program jammed through in the middle of the night after unprecedented arm-twisting, some Republicans claimed borderline bribery, leaving the machine open for 2½, 3 hours, whatever it was. And these were not our approaches in a program that wasn't paid for, unlike this. We could have sabotaged it. We could have picked away at it. But, to the best of my knowledge, all of us kind of rolled up our sleeves. That was the law. There is an opportunity to give benefit to people. And we were moving forward to try to improve it.

I heard some concern from my friend, Mr. Ryan, about what is going to happen with some of the people who may run athwart the penalty provisions. There may be—I find that ironic, because this Committee Majority actually took action to make the cliff worse, to magnify the effect of the claw-back, to put more people at risk of having to pay back more money. There was one provision that would have eliminated it altogether. And I just—I find that emblematic of what is really sad, that for the first time we have a party committed to undermining a law, not fixing it, not refining it, not trying to truly clarify where the problems are, and working together to solve them, but to throw sand in the gears. I mean, the IRS is having furlough days, for heaven's sake. I don't know any business that lays off its accounts receivable.

Undercutting the information, having interminable hearings—dragging thoughtful men and women who would like to be out doing their job, implementing the law—on pointless exercises to repeal a law that is not going to be repealed, and thus making it harder to have a smooth implementation, harder to give people the information, harder to work out the glitches. Nobody would have designed the bill the way it is. It is a B-minus. But, because of a complete collapse of the legislative process in the Senate, we had to do it through reconciliation. And then, ever since, there has been this assault on its implementation. And I think that is sad. I think it is unfortunate. It short-changes men and women around the country who would like to take advantage of the provisions.

And, as I will illustrate from the information I am submitting for the record from Oregon, there are some real advantages here. It is going to be fascinating watching in a year States that have rejected money for Medicare, States that have rejected setting up their own exchanges and trying to work, compared with States that have, is going to be a positive benefit. I hope that this is the last time we see a concerted effort to sabotage a government program and benefits for our citizens, as opposed to refining, fixing, debating, and moving forward.

But, Mr. Chairman, I appreciate your having the hearing. I would appreciate, Mr. Cohen, if you could provide in writing the

answer to Mr. Ryan, where the hypothetical that he came up with, the young woman would be eligible to apply if she is not a dependent. If that could be made a part of the record I would appreciate it. I see my time is up, but if you could provide that for the Committee, I would deeply appreciate it.

Mr. COHEN. I would be happy to.

Chairman CAMP. And, without objection, the gentleman's information that he will submit for the record will be allowed.

And I do want to note to the gentleman that this is the first oversight hearing on implementation of the healthcare law this Congress that the Committee has had, the first and only so far.

So, with that, we will go to Mr. Griffin and then to Mr. Schock.

Mr. GRIFFIN. Thank you all for being here. I appreciate it. I take this hearing seriously. And everybody up here represents about 700,000 people. And people I represent don't agree necessarily by the same margins with some of the other folks that sit up here. I represent a district where people oppose, in large part, this law. And that is just a fact. So when I speak, it is not Tim Griffin giving you my opinion only. I am speaking for Americans who have grave concerns. So I think it is important to have this discussion.

And, you know, I have heard today talk about passing bills that have zero chance of becoming law, that we don't want to improve the law. Well, last time I checked, seven of those we have passed have become law. I am holding the list right here. So if you doubt that we want to improve it, as well as get rid of it, they are not—these are not inconsistent. You have a long-term goal and a short-term goal. And we have passed numerous bills here that the President has signed into law, at least seven. And the biggest change, the gutting—at least for 1 year—of the employer mandate, that is what my bill was introduced to do. The worst the White House could say about it was that it was redundant. I wanted to comply with the law, I thought it would be better if Congress spoke on that issue.

So, I take issue with the idea that somehow these bills can't become law. I think there are a lot of laws that people on both sides of the aisle oppose, and they will work their time in Congress to appeal them. This is one of them that I am focused on.

But I want to mention a number of things here. Sometimes I feel like the discussion is not rooted in the reality that I hear. Okay? So, I am going to get away from my opinions, get away from the opinion writers, and I just want to read some of these headlines from news stories, so that we can all agree that this is out there around the country. I think this is important, so I am going to just read some of these.

These are headlines from the *Associated Press*: "Florida Insurance Officials Say Rates Will Rise Under the ACA"; "Georgia Insurance Rates Spike Under Obamacare"; "Chattanooga Business Owner Says Obamacare Costing Workers Pay Raises and Benefits"; "Maryland Consumers Could See 25 Percent Premium Increases Under Obamacare"; "UNA Asks Student Employees to Work Fewer Hours"; "Half of Affordable Care Act Cost Center Jobs Will Be Part-Time"; "Obamacare to Impact Franklin County Workers"; "Wisconsin Grocery Store Forced to Cut Hours, Due to Obamacare";

"White Castle on Obamacare: 'We May Only Hire Part-Time Workers'"; "Wellpoint Sees Small Employers Dropping Health Coverage"; "Growing Worries About Obamacare Forcing Insurers Out of State Markets"; "Full-Time Versus Part-Time Workers: Restaurants Weigh Obamacare"; "Obamacare Forces Work Hour Limits for Students"; "Brevard Cuts Some Workers' Part-Time Hours to Avoid Obamacare Rules"; "Obamacare Delays the Relief for a Family Business"; "Texas Business Owner Facing $1 Million in Annual Obamacare Costs." And I have pages and pages and pages and pages. And I will be reading these on the floor of the House tonight.

But the point is these aren't manufactured concerns. These aren't opinions. These are *The Hill* and the *Missourian*, the *Huffington Post*, and others. These are real news articles. So in a serious way, I am trying to convey that a lot of our objections and concerns reflect the concerns of our constituents.

I hear it every day. I received a text on the way—I was over 1 minute—on the way over here I received a text from a constituent who has my cell phone number—most do—telling me her objections to Obamacare and the Affordable Care Act. So this is real, and it is real for our constituents. And I just want to make sure that you hear that side of it. It is not all Washingtonspeak. We are communicating what our constituents are telling us. And they are scared, and they are concerned.

Thank you all for coming, I appreciate your time.

Chairman CAMP. Okay. Mr. Schock.

Mr. SCHOCK. Thank you, Mr. Chairman. Thank you, gentlemen, for your patience and cooperation with our questions.

Let me just start at the 30,000-foot level. Mr. Cohen, your responsibility is to carry out and implement the Affordable Care Act. And, obviously, this is a law that was hotly debated, passed the Senate, passed the House, signed into law by the President, is the law of the land. Your responsibility, as a Federal employee, is to carry out and implement that law.

The President has decided—the Administration, I guess I should say—the President vocalized his unilateral decision to withhold implementation of a portion of that law, specifically the employer mandate. I am just wondering, from your perspective as that Federal employee, did you seek any legal counsel or legal opinion on whether or not you could go ahead and not implement a portion of the law passed by Congress and instead move forward on a dictate from the President inconsistent with U.S. law?

Mr. COHEN. I haven't, but I would point out that portion of the law is not one of the ones that I am tasked with implementing. That portion of the law is the Treasury Department, the IRS's, not mine.

Mr. WERFEL. And I will answer that——

Mr. SCHOCK. Mr. Werfel.

Mr. WERFEL [continuing]. There was a—I was not in these meetings, but there was a team of lawyers, as I understand it, who evaluated the legal issues surrounding this decision on the employer provisions. So I think there was significant legal review of the issue.

Mr. SCHOCK. Can you get to us the names, specifically, of who gave that legal opinion, whether it was Treasury Department attorneys, or whether it was legal staff at the White House, who specifically weighed in on the legal interpretation to determine the executive branch could unilaterally make a decision of not upholding a U.S. law passed by Congress and signed into law by the President?

Mr. WERFEL. I will consult with Treasury on the best way to respond to your question.

Mr. SCHOCK. Okay, thank you. I think that would be helpful. Because I think it is confusing to Americans to watch us debate laws, watch them be enacted, and then see, maybe for legitimate reasons, the President say, "Look, this isn't ready for implementation," and rather than go back to Congress and say, "Look, we need permission to not do X, Y, or Z, the executive branch simply says, "We are just not going to do it." I think it speaks not only to the credibility of this law, but I think it also undermines the credibility as we work on other important challenges and issues facing our country, whether it be immigration, our national debt, and the like. That trust is so important between the executive and the judicial branch—or executive and the legislative branch, as well as with the American people.

Mr. Werfel, you mentioned in your comments earlier in reference to the IRS and Treasury union employees who wish to opt out of the exchanges, that you thought it was appropriate that those employees be able to stay with their current policy because they are happy with it, happy with their policy. I am wondering whether or not, given the fact that there have been several thousand exemptions given out to different businesses and labor groups not to have to comply with the law, whether or not the Treasury union employees would be able to apply for a similar exemption?

Mr. WERFEL. I think, if I understand the issue correctly, the Federal employees and the IRS employees would not need to do that. The NTEU statement was in response to a proposed piece of legislation that would have required Federal employees to move into the exchange framework. And so they were saying, "We prefer for that legislation to not pass, because, again, we already have affordable healthcare coverage, and we are happy with our current program."

So, there is no need for a waiver for the IRS employees, as far as I understand the law today.

Mr. SCHOCK. So how would they be exempted, or how——

Mr. WERFEL. Well, they—the reality is that you only go to the exchange if you are unhappy with your health care—it is an option. You go to the—you have to have health insurance, right, under the law. But as a Federal employee you have health insurance, so you are covered. You wouldn't need to go to the exchange, unless you were unhappy.

Mr. SCHOCK. But the law requires them to go to the exchange. That is the problem.

Mr. WERFEL. No, it does not.

Mr. SCHOCK. Well then, why are they——

Mr. WERFEL. Because the proposed bill that was being considered and introduced would have had this requirement in place. It would have basically taken away the normal Federal employee

health benefit plan, and required them to move to a different health benefit plan, which would have been through the exchanges. And they were basically saying, "I don't want that law to be passed, because I am"——

Mr. SCHOCK. So they don't want to have happen to them what is happening to Congress.

Mr. WERFEL. Well, but—because they were saying—because that—well, yes. That is right.

Mr. SCHOCK. That just makes it much clearer.

Mr. WERFEL. That is correct, yes.

Mr. SCHOCK. Thank you. Finally, I just want to hit on the self-attesting—it sounds as though you have a plan in place, Mr. Cohen, to speed up the process of being able to verify income. I just want to very quickly throw out a few figures.

In Illinois they did the self-attesting and verification later, just on the Medicaid portion. And they found, just in their initial investigation, 20,000 Medicaid cases, 13,000 of which should not have gone on to Medicaid, they did not meet the income verifications. So these people self-attested, "Yes, I qualify." Two-thirds of them, after the agency followed up, actually were thrown off. So I think that is a problem, if we are going to say yes now and verify later. And I would suggest that maybe there ought to be a way that we verify their income first, before they start getting a benefit. I yield back.

Chairman CAMP. All right. Time has expired. I want to thank both Mr. Cohen and Mr. Werfel for being here and being willing to answer all the questions that Members of the Committee put forward to you.

And, with that, this hearing is adjourned.

[Whereupon, at 1:02 p.m., the Committee was adjourned.]

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