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United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510–6200

July 28, 2015

The Honorable Andrew M. Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
200 Independence Ave, S.W.
Washington, D.C. 20201

Dear Mr. Slavitt,

On July 16, 2015, the Senate Committee on Finance held its second hearing on the United States Government Accountability Office's (GAO) ongoing investigation into the federal Health Insurance Marketplace's enrollment controls. Last week, GAO submitted testimony before the Finance Committee entitled "Observations on 18 Undercover Tests of Enrollment Controls for Health-Care Coverage and Consumer Subsidies Provided under the Act." Seto J. Bagdoyan, Director of Forensic Audits and Investigative Service, served as GAO's witness in explaining their findings to the Committee. Mr. Bagdoyan's testimony, both at the hearing and in his written statement, show that problems persist, including those that GAO raised a year ago at the Finance Committee's first hearing on the Marketplace's enrollment controls.

To better assess the enrollment controls of the federal Health Insurance Marketplace, GAO conducted 18 undercover tests using fictitious applicants. Of GAO's 18 fictitious applicants, 6 sought to apply in person and 12 applied online or via telephone. Of these 12, 11 were approved by the Marketplace for coverage and subsidies in 2014. In early 2015, six of the fake applicants were terminated. However, GAO was able to have five of the six reinstated very easily without any additional documentation *and* with greater subsidy amounts. GAO attempted to sign up the other six fictitious applicants for tax credits with in-person assisters. In five out of six cases, both Navigators and non-Navigator assistance personnel failed to offer any assistance.

Although GAO was careful to note that the results of its tests cannot be generalized to the full population of applicants or enrollees, these findings are very troubling. The GAO findings show that there has been a rise in major problems with enrollment controls, with little to no improvement. The findings highlight CMS's conscious decision to downplay program integrity in order to focus on mass enrollment. The Administration had spent over $120 million on the Navigator program for the 2014 and 2015 open enrollment periods. These enrollment assistance programs cannot be allowed to use hard-earned taxpayer dollars for expenses that are either wasted or untracked in terms of their use. Moreover, given the operational challenges of the

Marketplace nationwide, the use of federal funds should support programs that efficiently and consistently help American citizens, rather than leaving them dumbfounded.

When applicant information does not match information available from Marketplace verification sources, these inconsistencies should raise red flags for CMS. Instead, GAO reports that, according to CMS officials, the Marketplace did not terminate any coverage for several types of inconsistencies. As Members of the Committee, we are concerned by these findings. Accordingly, we request the following information by no later than Monday, August 31, 2015:

1. When did GAO first notify CMS of issues with the federal exchange's enrollment controls?

2. What steps, if any, did CMS take in response to GAO's findings? If CMS did not take steps in response to GAO's findings, why not?

3. How does the federal exchange verify identity, citizenship, and salary information? When answering, please address the following questions:

    a. Does the federal exchange use different methods of verification for online, telephone, or in-person applications? If so, why?

    b. Does the federal exchange use different methods of verification for identity, citizenship, and salary information? If so, why?

    c. For verification purposes, are identity, citizenship, and salary information of equal importance?

4. What, if any, internal controls were in place when the federal exchanges were first opened, including controls for online, telephone, and in-person applications? What, if any, additional controls have been added since that time? Were these controls sufficient?

5. Does CMS have the ability to track how many individuals were actually declined and prevented from receiving subsidies?

6. Please describe how CMS assesses the effectiveness of the federal exchange's enrollment controls, including controls for online, telephone, and in-person applications. Has CMS identified any other weaknesses in the federal exchange's enrollment controls that GAO did not identify? If so, what weaknesses?

7. It has come to our attention that the federal exchange has been employing a good faith policy, or good faith exemption, as part of its verification process, specifically with respect to applicants' submission of documents.

    a. What is the good faith policy? Please explain in detail.

    b. Why does CMS think that this is the appropriate verification standard for identity, citizenship, and salary information?

c. Does the good faith policy extend beyond verification of identity, citizenship, and salary information?

8. Over $120 million has been spent on the Navigator program.

   a. Please provide an itemized breakdown of federal funds directed to the Navigator and non-navigator programs or grants.

   b. What criteria does CMS employ to assess the effectiveness, including responsiveness to potential applicants, of both Navigators and non-navigator in-person assisters?

9. CMS did not provide GAO with access to certain data, which was needed for GAO's investigation, in a timely manner.

   a. When did you first become aware of GAO's difficulties obtaining access to data related to its investigation?

   b. What steps did you take to ensure that GAO obtained access to the data it requested?

   c. How long did it take CMS to provide GAO access to the data it requested?

10. As part of the technical surge team brought to CMS to rescue the federal exchange, and in light of GAO's findings, what controls do you think would improve the integrity of the federal exchange's enrollment process? Do you have plans to implement these controls? If not, why not?

11. How will CMS address the issues that GAO has identified going forward?

Thank you for your attention to this matter and we would appreciate receiving a response by August 21, 2015. Should you have any questions regarding this request, do not hesitate to contact Kim Brandt of the Finance Committee staff at 202/224-4515.

Sincerely,

Orrin Hatch

Chuck Grassley

Mike Crapo

Rob Portman

Mike Enzi

Pat Toomey

Dan Coats

John Cornyn

Pat Roberts

John Thune