

**Hearing on the Status of the Affordable Care Act Implementation**

---

HEARING  
BEFORE THE  
SUBCOMMITTEE ON HEALTH  
OF THE  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED THIRTEENTH CONGRESS  
SECOND SESSION

---

**September 10, 2014**

---

SERIAL 113-HL16

---

Printed for the use of the Committee on Ways and Means

**COMMITTEE ON WAYS AND MEANS**

DAVE CAMP, Michigan, *Chairman*

SAM JOHNSON, Texas  
KEVIN BRADY, Texas  
PAUL RYAN, Wisconsin  
DEVIN NUNES, California  
PATRICK J. TIBERI, Ohio  
DAVID G. REICHERT, Washington  
CHARLES W. BOUSTANY, JR.,  
Louisiana  
PETER J. ROSKAM, Illinois  
JIM GERLACH, Pennsylvania  
TOM PRICE, Georgia  
VERN BUCHANAN, Florida  
ADRIAN SMITH, Nebraska  
AARON SCHOCK, Illinois  
LYNN JENKINS, Kansas  
ERIK PAULSEN, Minnesota  
KENNY MARCHANT, Texas  
DIANE BLACK, Tennessee  
TOM REED, New York  
TODD YOUNG, Indiana  
MIKE KELLY, Pennsylvania  
TIM GRIFFIN, Arkansas  
JIM RENACCI, Ohio

SANDER M. LEVIN, Michigan  
CHARLES B. RANGEL, New York  
JIM MCDERMOTT, Washington  
JOHN LEWIS, Georgia  
RICHARD E. NEAL, Massachusetts  
XAVIER BECERRA, California  
LLOYD DOGGETT, Texas  
MIKE THOMPSON, California  
JOHN B. LARSON, Connecticut  
EARL BLUMENAUER, Oregon  
RON KIND, Wisconsin  
BILL PASCRELL, JR., New Jersey  
JOSEPH CROWLEY, New York  
ALLYSON SCHWARTZ, Pennsylvania  
DANNY DAVIS, Illinois  
LINDA SÁNCHEZ, California

JENNIFER M. SAFAVIAN, *Staff Director and General Counsel*

JANICE MAYS, *Minority Chief Counsel*

**SUBCOMMITTEE ON TRADE**

KEVIN BRADY, Texas, *Chairman*

SAM JOHNSON, Texas  
PAUL RYAN, Wisconsin  
DEVIN NUNES, California  
PETER J. ROSKAM, Illinois  
JIM GERLACH, Pennsylvania  
TOM PRICE, Georgia  
VERN BUCHANAN, Florida  
ADRIAN SMITH, Nebraska

JIM MCDERMOTT, Washington  
MIKE THOMPSON, California  
RON KIND, Wisconsin  
EARL BLUMENAUER, Oregon  
BILL PASCRELL, JR., New Jersey

---

C O N T E N T S

---

[Advisory of September 10, 2014 announcing the hearing](#)

**WITNESSES**

The Honorable John Koskinen  
Commissioner, Internal Revenue Service

Witness Statement [[PDF](#)]

Andy Slavitt  
Principal Deputy Administrator, Centers for Medicare & Medicaid Services, Department  
of Health and Human Services

Witness Statement [[PDF](#)]

---

## Hearing on the Status of the Affordable Care Act Implementation

U.S. House of Representatives,  
Committee on Ways and Means,  
Washington, D.C.

---

The subcommittee met, pursuant to call, at 10:06 a.m., in Room 1100, Longworth House Office Building, Hon. Kevin Brady [chairman of the subcommittee] presiding. [Advisory](#)

---

The subcommittee met, pursuant to call, at 10:06 a.m., in Room 1100, Longworth House Office Building, Hon. Kevin Brady [chairman of the subcommittee] presiding.

Chairman [Brady](#). Committee will come to order. The Affordable Care Act has changed how Americans receive their healthcare. There has been ample debate over the last 4 years about the ACA and what impact it will have. Today we have the chance to look in the rearview mirror and judge results rather than the rhetoric and promises, and we have the opportunity to look forward to next year to see what other changes and surprises may lay ahead for the American people.

It is no surprise that I and many of my colleagues on this side of the aisle were very concerned about what would happen with the rollout of the ACA and HealthCare.Gov. Unfortunately, for the American people, many of those concerns came true. The ACA has helped some Americans, no doubt, but has hurt many more. Millions of families lost their doctor and their healthcare plan. Millions more saw their premium spike because of new taxes and regulations that provide them with no additional coverage, just more costs, and many more workers saw their hours cut as businesses prepare for further mandates.

But worst of all, many Americans have lost trust in our government when it comes to being honest about its healthcare promises. Many patients fear what may be in store for them next. They have lost their health care they have and like, lost their doctor and are seeing their premiums sore. And for those that end up in the government exchanges, the ones that the law was supposed to help, they were subjected to a disastrous rollout of HealthCare.Gov, delays as paperwork went missing, and the ongoing reality that they may owe thousands of dollars back to the IRS for subsidies they are not eligible for. Not because they did anything wrong, but because the ACA income verification system was not and still is not working.

But the administration assures us next year its smooth sailing. Unfortunately, the answer to that is "no." Open enrollment has been delayed until November 15. I am worried that individuals won't enroll. The Centers for Medicare and Medicaid Services recently announced that if individuals don't select a new plan by December 15, they will be auto enrolled in their old plan.

The problem with that, however, is that their premium tax credit, if they get one, will be based on the one they are receiving today, whether accurate or not. If a person wants to accurately know how much of a subsidy they will receive for 2015, they need to go through HealthCare.Gov again. Yes, the HealthCare.Gov that was just hacked, carries the risk of putting Americans' sensitive, personal information at risk.

In plain English, it means that working families will have to wait that much longer or work that much harder to find out how much their health care will cost next year. It is not right for those trying to put together their family budgets right now. What is also not right is the fact that the ACA's income verification is still not working.

Despite Secretary Sebelius' certifying to Congress on January 1st of this year that a working verification system was in place, the HHS inspector general found that there were nearly 1 million income inconsistencies on exchange applications. Because individuals were able to self-attest to their income levels, there was little data before taxpayers' subsidies were sent out the door. And if the data is wrong, thanks to the horrible poor implementation of the bill, hundreds of thousands of Americans could be hit with a nasty surprise when they do their taxes next year. They could be forced to pay back hundreds or even thousands of dollars.

Recently, the Treasury Department spokesperson suggests that the ineligible subsidy that someone owes back to taxpayers could be capped. That is not how the law is written. Individuals who are not eligible, either because of improper income data or coverage from another source must repay the entire amount. The ACA tried to invent a system that would collect that information to prevent things like this from happening and improper subsidy, but guess what? It has proven so far to be too complicated and too burdensome.

The administration has admitted time and time again, the law doesn't work, delaying one provision after another or exempting special interests or politically-favored friends from the most onerous parts of the law. And while the mandate on local businesses is not being enforced, for 2014, the mandate on individuals to buy government-approved health care or pay a tax is. That certainly doesn't sound fair to me. And that is why this White House has lost, in my view, the trust of the American people.

Today's hearing is an opportunity for CMS and IRS to begin an open and honest conversation with the citizens of the great country about their health care. And before I recognize Ranking Member Dr. McDermott for the purposes of an opening statement, I ask unanimous consent that all members' written statement be included in the record. Without objection, so ordered.

And I will recognize the Ranking Member Dr. McDermott for 5 minutes for the purpose of his opening statement.

Mr. McDermott. Thank you, Mr. Chairman.

Mr. Koskinen and Administrator Slavitt, welcome to a tale of two cities. Before we enacted the ACA 4 years ago, America's healthcare system was dysfunctional and deadly. Forty-six million people were uninsured, and every year 45,000 Americans died because they lacked coverage. Many Americans who had insurance weren't getting a good deal. Their health security was tenuous at best and prospect of bankruptcy due to medical bills was a real threat for far too many families. Insurance companies could hike up plan rates with impunity and without accountability. Insurance companies could refuse to cover people with preexisting conditions, and benefits dropped away from people who were most sick and needed health care the most.

Meanwhile, Medicare costs were increasing at unjustifiable high rates, in part because the Federal Government was overpaying private insurance companies tens of billions of dollars through the Medicare Advantage program. Waste, fraud, abuse continued to chip away at the trust fund as fraudsters and other questionable actors built beneficiaries. And the American taxpayer, while law enforcement like the tools to

crack down on, fraud, in fact, had existed. Millions of seniors were falling into the Medicare prescription donut hole where coverage evaporated just when they needed it.

Today, things are different. There is a real health security for millions of Americans due to ACA. Marketplaces across the country are backed up, running, ready for business. Eight million Americans signed up for coverage during the first open enrollment period, and the number of uninsured Americans has dropped by almost 10 million. Six million Americans have gotten tax credits and subsidies to help offset their healthcare costs.

In addition, smart States have expanded Medicaid, which has increased coverage to millions more of the most vulnerable Americans. Thanks to the ACA, hardworking Americans have no longer been denied coverage because they have preexisting conditions, and their rates cannot be arbitrarily raised when they get sick. We are cracking down on fraud, waste and abuse, instead of targeting fraud after the fact. Federal regulators are increasingly preventing violations on the front end.

Thanks to vigorous enforcement and the tools provided by the ACA, the administration has recovered more than \$19 billion over the past 5 years. Payments to private insurance companies have been reduced to more appropriately reflect the cost of delivering Medicare while Medicare benefits have actually been increased. With free preventive care and coverage in the donut hole, millions of seniors have saved billions of dollars since the ACA was enacted.

Now, have there been a few hiccups? Yes, there have been a few hiccups. You start something big, you always have a few hiccups. Talk to the Boeing Company. Implementations of the ACA have suffered due to Republican propaganda designed to confuse and scare the public, senseless repeal votes and harmful budgets cuts. And as the Commissioner from the IRS has testified in the past, the IRS is seriously understaffed making it harder for the agency to implement key parts of the ACA.

Similarly, CMS has been denied needed resources, yet despite the Republican's best effort at sabotage, the ACA is working. The law is saving money and lives. And my belief is that we are on a pace to guarantee health security for 32 million more Americans in the coming years and Medicare spending is at its lowest per-person growth in history.

In light of the ACA's success, I look forward to the day when Republicans do an about-face to accept their share of the responsibility in guaranteeing health security for all Americans. That means ending this senseless mission of sabotage and repeal. That means working with the Democrats to ensure all of our constituents benefit from all the ACA has to offer.

And we look forward to your testimony. Thank you.

Chairman Brady. Thank you, Ranking Member Dr. McDermott.

Today, we will hear from witnesses on two panels. John Koskinen, Commissioner of the Internal Revenue Service, and Andy Slavitt, Principal Deputy Administrator for the Centers for Medicare and Medicaid Services.

Commissioner Koskinen, you are recognized for 5 minutes.

Mr. Koskinen. Thank you, Chairman Brady, Ranking Member McDermott and members of the subcommittee, thank you for the opportunity to appear before you today to update you on the work that the IRS is doing to fulfill our responsibilities under the Affordable Care Act. My testimony will focus on the significant efforts the IRS has been making to prepare for the 2015 filing season in relation to the premium tax credit and the individual shared responsibility provision under the Act.

The IRS has already implemented a number of tax provisions under the Act, including the branded prescription drug fee, the tanning tax and the medical device excise tax. It should be noted at the outset that the vast majority of taxpayers will need to do nothing more next year under the Affordable Care Act than check a box on their tax returns because they have health coverage from one source or another.

People who buy insurance through the marketplace and who qualify for the premium tax credit will have an extra calculation to make when they file. Most of them chose to have an advanced payment sent to their insurer during the year based on their family situation and estimated income for 2014. They will have to reconcile this advance payment on their return. We have already issued a draft of the new form they will use for this purpose, Form 8962.

If anyone paid for the insurance up front and claims to be eligible for the premium tax credit, they will calculate the amount of the credit they are entitled to and claim it on their tax return. The IRS has also developed the Form 1095-A and instructions. Beginning with the coverage purchased in 2014, the marketplace must issue the Form 1095-A to those who bought a policy through the marketplace. The data on this statement will verify the fact of marketplace coverage and facilitate the reconciliation process for the premium tax credit.

The data will also be sent to the IRS and it will help us make sure that only people who qualify for the premium tax credit receive it. We are in the process of conducting tests with the Federal and State marketplaces to ensure that our systems can accept this data and will be ready to operate as planned when filing season opens next year.

The work being done to prepare for filing season also involves the individual shared responsibility provision. This requires people to have insurance coverage for each month of the year, have an exemption or make a shared responsibility payment. A number of individuals will be exempt from this provision.

For example, a person could be exempt for hardship reasons or if a gap in their coverage during the year was less than 3 consecutive months. Those who qualify for an exemption will provide information about it on a new form we have developed, Form 8965. The IRS has also been working to make sure that people understand how these two major ACA provisions may affect them at tax time. In helping people understand how the ACA might affect them, our primary goal is to make it as easy as possible for people to file their taxes next year. By providing this information in advance, we are also trying to answer as many questions as possible before the filing season to limit the number of people who need to call us for help.

For example, our Web site, [IRS.gov](http://IRS.gov), has a new section devoted to the ACA. We have also issued 16 healthcare tax tips and nine YouTube videos on ACA topics so far this year, with more on the way. And we have increased our use of social media, including Tumblr and Twitter to help get the word out. And yet, we still anticipate an increase in calls next filing season from taxpayers seeking assistance in regard to the ACA.

We are concerned about our ability to meet this demand because of ongoing budget constraints and because of the possibility of additional increase in calls if Congress passes tax extender legislation later this year. We hope that Congress will pass any extenders as early as possible this year with as few changes as possible.

I would note that the various ACA implementation efforts I have just described were accomplished in the absence of appropriated dollars requested for this effort. For fiscal year 2014, the administration requested \$430 million for the IRS to implement these tax-related provisions. Of that total, 300 million was needed for building and improving information technology systems and processes. No portion of the request was funded. Nonetheless, the IRS continues to deliver on this mandate given to us by Congress by refocusing the needed funding from other IT and agency priorities.

Our concern with fiscal year 2015 budget request of about 400 million for additional taxpayer services, if we had the funding, we would hire enough full-time equivalents to end up with a level of service at 80 percent. Without the funding, we expect that our taxpayer level of service may drop to as low as below 50 percent, which would mean that almost half of the people calling will not be able to reach a live assistant. We continue to work, as I said, to ensure that taxpayers in advance have as much information as possible to limit that load on our call-in system, but it is going to be one of our major challenges.

This concludes my testimony, and I would be happy to take your questions.

Chairman Brady. Thank you, Commissioner.

Chairman Brady. Mr. Slavitt, welcome.

Mr. Slavitt. Good morning, Chairman Brady, Ranking Member McDermott, members of the subcommittee. I am Andy Slavitt, Principal Deputy Administrator of CMS. I joined CMS 2 months ago from the private sector where I spent the last 20 years principally working with physicians, hospitals, health plans and employers on solutions to problems of healthcare costs, quality and access. During that time, I have been both an entrepreneur and have run a major division of one of America's largest healthcare companies.

In late October of last year, I began my involvement with the Affordable Care Act implementation when I joined the group of people helping the CMS team on the turnaround effort of the health insurance marketplace. I am pleased to appear before you today. Before answering your questions, I will briefly walk you through some of the progress of the Affordable Care Act to date and talk about our priorities for the coming period.

There is growing evidence that the Affordable Care Act is working to make higher quality healthcare more affordable and accessible for millions of Americans. During the first open enrollment, millions of Americans selected a private insurance plan through their State or Federal health insurance marketplace and millions more have retained coverage on their parents' policies or have newly qualified for Medicaid or CHIP.

According to Gallup, the adult uninsured rate fell to 13.4 percent for the second quarter of 2014, a record low. In addition, we are seeing historically low growth and overall health spending measured at both the consumer level and the national level. This success is not being achieved by government policy alone, but in partnership with the private sector as insurers grow by competing to provide better quality and affordable services. Now, as we continue through the first year of marketplace implementation, we must build on that progress that is underway and continue to approve our execution based on the lessons from the last year.

First, we are focusing on increasing the value consumers get when they come to the marketplace. Early evidence from States that have already published this information is indicating consumers will have more options and more competitive rates. According to a recent survey conducted across 16 major cities, premiums for the benchmark marketplace plan will actually decrease on average in the coming year.

This is good news for consumers who are typically paying less than \$100 a month for premiums for a policy in the marketplace. Most important is that this gives many families access to affordable, quality health care for the first time. According to a Commonwealth Foundation survey, two out of three newly-covered adults are saying they are now taking medicine and seeing doctors they couldn't afford before. When you get underneath all the statistics about the uninsured rate dropping and rates remaining competitive, this is what counts.

Next, we have heightened our focus on execution. Even as we continue to learn about new consumer needs, we are building out further automation and are working to improve interaction points with consumers and health plans. High on our agenda is making it easier for consumers to enroll and renew their coverage, providing scale to handle greater volumes of people, and completing back office functionality.

How we execute has been a major area of focus from the Secretary on down. Our operating principles are straightforward: Clear accountability with a new marketplace CEO and clearer structure; ruthless prioritization, which has meant we haven't done everything everyone has wanted, but have, instead, built in more time to test what we build; and transparency, even when things happen that we don't plan on.

The team at CMS is hard at work on implementation. This coming year will be one of visible and continued improvement but not perfection. We are in the early stages of the program newly serving millions of consumers and are still learning about the best ways to support their unique needs. We are making the right progress to have a successful open enrollment and continue to deliver on the promise of the Affordable Care Act to improve healthcare access, cost and quality for all Americans.

Thank you, and I look forward to your questions.

Chairman Brady. Thank you, Mr. Slavitt.

Chairman Brady. Commissioner Koskinen and Mr. Slavitt, I want to return to the theme I mentioned in my opening statement and that is trust. I think, my view, the American people have lost trust in the IRS for a number of reasons, including health care. And I think the disastrous rollout of HealthCare.Gov has created a lack of trust among the American people, as well as promises not kept.

I do appreciate the work, Mr. Slavitt, you are doing, and there is a lot of it, to try to bring that site up to speed, more importantly, making sure we get the back end completed and right. Problems, obviously, remain with this. There are going to be more problems going forward into the second year.

So my question to both of you, and it really isn't a gotcha question, but in spite of all these problems, you know, how do you expect to, again, regain the trust of the American people when it comes to their health care? The ACA, in my view, through heavy subsidies is reducing the cost for some, but it is increasing the cost for others. And there is real concern back home from patients, providers and businesses about the Affordable Care Act.

So what are you doing to make sure the second year of the ACA is not like the first year in that steps will be taken to regain the trust of the American people regardless of what party they are, that are just simply concerned about their health care? Commissioner.

Mr. Koskinen. Well, we take, as I hope everyone knows, seriously the obligation to, as I say, try to make it as clear and straightforward and as easy as possible for people to determine what they owe and to be able to make those payments. As I have said on numerous occasions, we distinguish between the willing to pay and the unwilling to pay. And those willing to pay, even if they have difficulties, as I have said, don't have to hire somebody off late night TV to come talk to the IRS.

If you are willing to pay, trying to become compliant, we are anxious to work with you. We have installment agreement possibilities, we have ways of creating offers and compromise. With a focus on ACA, our role and the front-end rollout to providing income verification data went very smoothly. The Inspector General said that it was virtually perfect. But we understand that there are going to be challenges with the first filing season, and that is why we are spending as much time as we are, starting last spring, trying to explain to the American people how the ACA affects them and what they need to do for filing.

And as I said, one of the most important things for the public to understand is the vast majority of those filing next year out of the 150 million expected individual returns, 120, 125 million of them will simply check a box that they have coverage and that is all they will have to do. The other people filing, those who are either reconciling premium tax credits, seeking a credit, filing an exemption or dealing with the shared individual responsibility payment will have additional responsibilities when they file, and we are doing everything we can to get them that information. We have had tax preparer forms across the country with 10,000 tax preparers focusing on the ACA.

But we take very seriously that, again, compliance with the Internal Revenue Code is a critical part of the tax system in the United States. We have a very compliant population. Our compliance rate is among one of the highest in the world. But to maintain that compliance rate, your point is well taken, people have to have trust and confidence in the system. They have to be confident they are going to get treated fairly no matter who they are.

As I have said, one of my highest priorities is to try to make sure that people understand, when they hear from the IRS, it is not because of who they are, what organization they belong to, who they voted for in the last election, if they hear from us, it is about an issue in their tax return. And if somebody else had that issue, they would hear from us, as well.

Chairman Brady. There are questions about that. But let me ask you this: The IRS has three main tasks right now. One is to confirm income verification to those who are getting subsidies today; secondly, on January 1, delivering to American people Form 1095-A that tells them what they need to do to file their taxes; and then to prevent having verification income placed before the second year premiums and subsidies are released. Where are you on each of those three?

Mr. Koskinen. As I noted, last year in the rollout, we provided income verification information to 27 million inquiries. The inspector general reviewed it and said we were 100 percent accurate on the information we provided. It was primarily information about tax return information for 2012.

Chairman Brady. Of those you have the information for, but the inspector general said roughly 1 million of them had inconsistencies, were not complete applications. What has been going on with those?

Mr. Koskinen. That was the review of HHS's and CMS's rollout. But in terms of the information provided by the IRS, the inspector general found that 100 percent of it was accurate. It was accurate to --

Chairman Brady. So all the income from the IRS standpoint, everyone who is receiving subsidies today, their income has been fully verified?

Mr. Koskinen. Our role is to provide the data when the inquiry was made. We don't play a role in terms of what they do with the data. We will have a significant role when people file --

Chairman Brady. The IRS has a roll of income verification?

Mr. Koskinen. When they file, we will obviously verify income as we do for the 150 million people who file, and that will determine the calculation that the taxpayer makes. It will determine whether they are eligible for the premium credit, how much of the advance payment they got and what reconciliation they have to make.

Chairman Brady. So again, today, of those receiving subsidies through the ACA that are helping them with their health care, the IRS says you can assure us all of those incomes have been verified at this time?

Mr. Koskinen. We provided income verification when requested last year in the rollout. We will do it again in this year's rollout. We have been advising taxpayers since last spring that whatever determination they made with the marketplace is about their circumstances. If there is any change in those circumstances, either in their family size or their income, they need to go back to the marketplace, because our concern is that everybody makes an estimate when you file your W-2s and your withholding. You are estimating what your income will be, obviously, for most people it changes to some extent.

Chairman Brady. Sure.

Mr. Koskinen. So we are focused on and concerned that we don't want people to have either gotten too small an advanced payment or too large of an advanced payment.

Chairman Brady. What I didn't hear was a "yes" there. And I am hopeful we can get to the day where you can say yes, we have verified them.

The 1095-A due in January, have you completed testing on that? Can the American public be assured when they are ready to do their taxes and get their refunds, that that form will be there in January?

Mr. Koskinen. Right. We don't provide that form. That form is provided by the marketplace.

Chairman Brady. But you provide the information for it?

Mr. Koskinen. Happy to turn it over to my colleague.

Chairman Brady. Okay. How about preventing income verification to prevent eligible subsidies, ineligible subsidies in the future?

Mr. Koskinen. As I said, in this rollout period for the second year, we will continue to provide income information to our system marketplaces and determine eligibility. But I would stress in the filing season, we will check, as we always do with everybody who files, their income will be verified. As I say, we have a very compliant population. They provide information about their income as it actually happened. What we are providing in the rollout is income information that can be used for verification for a previous tax year.

But, again, that is what your, in this year's rollout, it will be what your tax income information was for 2013, but it'll be used for eligibility for 2015. And again, when you file for your 2015 taxes, you will have a different number almost no matter who you are as opposed to what you estimated.

Chairman Brady. Sure. What is the process for collecting overpaid subsidies to those who are not eligible? Do you have that process in place?

Mr. Koskinen. That process will be our normal process in the sense that to the extent that your subsidy was too small, you will get a credit for that. For a lot of people in this income range it will be a refund. To the extent that your advance payment was too large, there will be a deduction either from your refund or an increase in the tax owing.

Chairman Brady. Sure. Now, I know how that process works. Is it fully in place to do that?

Mr. Koskinen. It is, at this point, we are about to test our own systems. But I am assured, I have been meeting every 2 weeks since January with the IT people, with the program people and the business people, looking at exactly what we have to do to make that happen, and thus far, I have been assured that, while it is a challenge, we are on track to be able to do that.

Chairman Brady. Sure. For someone who, through no fault of their own, received a subsidy they weren't eligible for, about what month in next year will they get the bad news that they owe taxes back to Uncle Sam?

Mr. Koskinen. They will get that news whenever -- shortly after --

Chairman Brady. It would be bad news. They will get that news.

Mr. Koskinen. They will get that news when they file, in the normal course. In other words, that news would be no different than any other bad news you might get if you turn out to owe taxes. So you will file a return. You will actually make your own calculation off the 1095 you get. You will determine whether you got too much and you owe additional tax or have a smaller refund. You will make that determination and you will file it with your return. Some people file in January. Some people file in April, and obviously, some extend their return into October.

Chairman Brady. So they may start the repayment as early as January of the coming year?

Mr. Koskinen. It will all depend when they file.

Chairman Brady. Sure.

Mr. Slavitt, can you address the issue, again, I know the serious work you are doing, both to address the problems in the past and try to both get the site working right and the back end right. There is no question about that seriousness. Can you address the trust issue at this point?

Mr. Slavitt. Sure. Mr. Chairman, thank you for the question. I have actually thought a little bit about this question. As I mentioned, I have worked for the government for 2 months, and interestingly --

Chairman Brady. You are an old man.

Mr. Slavitt. I am an old man. Well, interestingly, the people that I work with at CMS and at the Department and across the government, the career people have been some of the most trustworthy people I have ever worked with, yet, coming from the private sector, as you have said, there is a trust gap. And, you know, the way I understand that trust gap to be closed is the following ways: One is with transparency. Even when the news is bad, we need to be clear about what that news is, and I think this summer you have seen we have put out numbers, even worse-case numbers when there are challenges to help people with inconsistencies and so forth, rather putting those numbers out than other numbers and waiting for them to get better.

Second, is accountability. That means being here, and my first several months I have been here as frequently as I need to be. It also means owning up to mistakes. I don't think people expect us to be perfect. I do think people expect us to fix things when they don't work and be very candid about them and be very accountable.

And the third is straight talk. As much as possible, that means giving a direct and clear response when people are asking us very fair questions. It means saying "I don't know" when we don't know, even when we want to struggle to get back to people. There is no question that this implementation has a lot of pieces. It requires a lot of cooperation, and I think we can gain trust, I believe, in the work we are doing across government if we are clear in those categories.

Chairman Brady. Thank you, Mr. Slavitt. Again, I think you are trying to implement a poorly-designed, poorly-written, unworkable law; nonetheless, I think that approach of openness, transparency and straight talk will go a long way, frankly, towards restoring that trust. So thank you very much.

Dr. McDermott.

Mr. McDermott. Thank you, Mr. Chairman. I would like to enter in the record the tax inspector general's for tax administration's report, "Affordable Care Act: Accuracy of Responses to Exchange Requests," dated 3 July, 2014. I ask unanimous consent.

Chairman Brady. Without objection.

[\[The Honorable Jim McDermott\]](#)

Mr. McDermott. Both you gentlemen are listening to these questions, and I am trying -- I am a physician, so I am thinking I have got a patient sitting in my office, and his name is John Smith and he has a wife named Mary, and their income is \$70,000 between them. So that is their income last year. Do I understand that is the income that they bring forward, they say this is what I made last year, right?

Mr. Koskinen. That is correct. They provide that information to the marketplace.

Mr. McDermott. Now, if during the year John and Mary both have done good work and they get a pay increase, let's say they get \$5,000 increase this year because the economy is recovering, so now they are making, not 70,000 together but 80,000, how does that affect their income verification from last year?

Mr. Koskinen. It won't change their verification. Their verification was made at the time they applied for the policy and if they applied and were eligible for the tax credit. So again, what I said in response to the chairman's question, one of our concerns has been since the spring trying to remind people, if you were in that fortunate situation and you now expect to earn more money than you originally expected with your income verification, you should report back to the marketplace and adjust any advance payment you are getting, because to the extent you qualified and the payment is going to the insurance company, if your income goes up, the amount of that payment will go down.

And if you can adjust it during the course of the year, it means you will be closer to the right number when you file a return. If you don't make the adjustment during the year, your premium tax credit will be higher than it should've been and you will have to actually make that adjustment on your tax return.

Mr. McDermott. So the individual, when they get a pay increase, has to go to their employer and say -- or who do they go to and say, I want to adjust because I am now making 35,000 instead of 30 or whatever?

Mr. Koskinen. They go back to the marketplace where they purchased the policy.

Mr. McDermott. Back to the exchange?

Mr. Koskinen. Back to the exchange.

Mr. McDermott. Not to the insurance company but to the exchange?

Mr. Koskinen. To the exchange. The exchange is what determines how much of a premium payment, advance payment goes to the insurance company.

Mr. McDermott. And they have to do that if --

Mr. Koskinen. Mr. Slavitt, will correct me if I'm wrong.

Mr. Slavitt. You got it right, Commissioner.

Mr. McDermott. If they get it anytime during the year, they have to make a correction that month to be able to take care of it at the end of the year or -- I thought that was a fixed figure, that their income for this year is \$70,000, and if they get an extra 10, that is next year's income.

Mr. Koskinen. No. What happens is the estimate was made last fall. We provided income verification for the tax year 2012.

Mr. McDermott. Which is \$70,000 for this couple.

Mr. Koskinen. Assume that was 70,000. Now we are in 2014 and they are going to make \$80,000. The premium advance payment was made on the basis of the 70,000, but your tax return for this coming filing season will be based on what you actually earned in 2014 and what you actually earned in 2014 will be reconciled as to what your premium tax credit should be and what the advance payment should have been. So if your income goes up this year, which is a terrific situation, your eligibility for the premium tax credit will decline to some extent.

Mr. McDermott. So anybody whose pay goes up this year and is getting subsidies will have a deduction or have a reduction in the subsidy at the end of the year?

Mr. Koskinen. Correct. When they make their reconciliation, they estimated they were going to make 70,000, turned out they made 80,000, on their calculation on the forms we provided they will calculate what their premium for 2014 premium tax credit should be, and if the advance payment turned out to be larger because their income had gone up, they will make an adjustment on their return.

Mr. McDermott. So how many people is this going to affect? How many people's income go up during the year?

Mr. Koskinen. I am not sure anybody knows. We expect of the 8 million people covered, we are probably going to have 3 million or 3.5 million returns because you have families in that 8 million. And of those 3 million, 3.5 million, any number of them are likely to have had a change in family circumstances, a change in income. The income may have gone up, it may have gone down. I don't think there is any way that I know off the top of my head to tell you what percentage will be affected.

Mr. McDermott. Suppose you have some problems -- I guess my time is just about up -- but if they have had some problems at the job and their income has now been reduced by 5,000 apiece, so they now are only making 60,000.

Mr. Koskinen. Again, if they go back to the marketplace during the year, their advance payment will be adjusted in light of the new estimate of what they are actually going to make during the year. If they don't go back to the marketplace, when they file next spring, they will do a calculation and it will show that their premium tax credit amount they are eligible for is actually larger than the sum of the advanced payments that went to the insurance company and they will have an increase in their refund.

So there is no penalty for not going back to the marketplace, but if you go back to the marketplace, it will be able to make an adjustment that gets you closer to what your actual tax return is going to look like next spring.

Mr. McDermott. Thank you.

Chairman Brady. Thank you, Dr. McDermott.

Mr. Johnson is recognized.

Mr. Johnson. Thank you, Mr. Chairman.

Good morning, sir. You know, you all promised Americans under the Affordable Care Act that they could keep their health plan and their doctor at a lower cost. But as my constituents are seeing, those promises are just empty promises. They are outright lies. The reality is that millions of Americans have lost their health care and are being forced by this Act to get plans with higher out-of-pocket costs and fewer doctors.

And as you know, we are less than 4 months from the tax filing system, and unfortunately, Americans will face yet another hardship under Obamacare, because you can't file a simple tax form anymore. You've got to report your health care on it and you can't do that on a simple form. Is that true? In other words, will folks who are forced to pay more for health care and lose their doctor now be forced to file a more complicated tax return?

Mr. Koskinen. Those who actually have gotten a premium tax credit will have a calculation they have to make for it. As I say, the vast majority of Americans are going to have, you know, we estimate 120 million, 125 million Americans are going to be affected by the Act by simply checking a box on their return. But anyone who actually has purchased a policy and is either claiming the premium tax credit or reconciling the advance payment they have already gotten, will have a more complicated process as they will have to make that calculation on their return.

Mr. Johnson. So they can't file a simple form?

Mr. Koskinen. So they will not be able to file the simple form.

Mr. Johnson. So that is a hardship on America, isn't it?

Mr. Koskinen. It's part of the obligation, if you have got premium tax credit advance payment, then you have to reconcile it at the end of the year.

Mr. Johnson. Okay. Mr. Slavitt, under President Obama our national debt has reached a record high of almost \$18 trillion. So one of the most important things we can do here in Washington is get the fiscal House in order. In April, the CBO and the Joint Tax Commission estimated that the Federal Government will pay \$17 billion in 2014 for health insurance subsidies and over \$1 trillion from 2015 through 2024. The GAO testified in a July hearing that they had obtained numerous policies through the Federal exchange using false identities, including made up or nonexistent Social Security numbers.

Then the HHS Office of the Inspector General released a study of internal controls at select insurance exchanges, that report found that those exchanges were unable to validate the Social Security numbers and other eligibility requirements. Considering that nearly 87 percent of those who enroll in a plan through the Federal exchange receive a subsidy, that is a major concern.

Can you respond to these findings and tell us exactly what you are doing about it, and are you personally following that issue?

Mr. Slavitt. Yes, Congressman Johnson. So there is a fairly extensive process when someone fills out an application to apply to the covered under insurance marketplace. For a typical family of four, they provide 21 pieces of information that we independently verify through our computer systems that link up to various government entities. If even one of those pieces of information, of those 21 pieces of information we cannot verify, for whatever reason, then it is our obligation to seek physical documentation from the individual to make sure that, in fact, what they are reporting, when this pertains to their income level, whether it pertains to their citizenship status or whatever the information happens to be, that we get verification.

We have been contacting people extensively, in many cases with 10 or more outreaches, to ask them to submit the documentation so that we can be sure that all the information is coming in as accurate. It is, as you can imagine, a fairly extensive process. It is our first year doing it. It's the first year consumers have had to do it, and we are being, I think, fairly open about the fact that there are numbers of people who have inconsistent information that we have to match, and we are making that level of progress.

Mr. Johnson. Thank you.

Thank you, both, for being here.

Thank you, Mr. Chairman.

Chairman Brady. Thank you.

Mr. Thompson, you are recognized.

Mr. Thompson. Thank you, Mr. Chairman.

Thank you, both, for being here.

Mr. Koskinen, I want to follow up on Mr. Johnson's question about the extra hoop that you have to jump through if you receive a subsidy. There isn't an easier way to do this? You have to elevate them to a completely different process for filing?

Mr. Koskinen. It is a calculation. In other words, they have applied, as I discussed earlier, they have applied based on an estimate of what their income will be for 2014, those who have gotten --

Mr. Thompson. So can this be an extra box to check or something on the short form?

Mr. Koskinen. No, because you actually, if you got the premium, advance payment has gone to your insurance company, you have gotten that benefit. And what we need to do at the end of the year is reconcile -- you need to do as a taxpayer is reconcile how much of an advance payment have you gotten compared to what you are actually entitled to. And what determines what you are entitled to is how much you actually made this year as opposed to what you estimated when you enrolled.

Mr. Thompson. Let me ask a different way. Is this going to be an significant enough change to trigger some sort of elaborate filing, or is it something people can still do on their own?

Mr. Koskinen. This should be something that people can do. The form, is the usual form. It is simply a calculation of what you earned, what you are eligible for, what you actually received. You will have the 1095-A that will give you the information you need to fill out that form. The vast majority of Americans --

Mr. Thompson. Dr. McDermott had asked about individuals who either get a raise during the year or get a reduction in salary during the year and you explained -- and it sounded to me like a pretty complicated process that these folks are going to have to go through. But are you doing something to educate people, to let them know that if they do have a change of income that they are going to have to proactively do something on their forms?

Mr. Koskinen. Yes. As I noted, we have been talking about this in our public releases since the spring. Our Affordable Care Act site on the Web site has this information highlighted. We have been trying to continually remind people to make that adjustment, although it is not a requirement. If they don't make the adjustment, they make more money. When they make the calculation it will be a simple calculation. This is what I was entitled to and this is what I got.

Mr. Thompson. I suspect that most folks after they sign up for health care aren't going back to review the Web site. They figure that they have done that and they are getting on with the other things in their life. So I don't know that merely putting something on the Web site is going to be enough. And it seems to me there ought to be some way to better educate folks what they may have to face in this process.

Mr. Koskinen. Well, I am not a user of Twitter or Tumblr, so I can't tell you the reach of it, but we have YouTube videos, we have information that is going out on all the social networks and Web sites. As I say, we have talked to tax preparers across the country all year long about this.

Again, to the extent they go back to the marketplace and make the adjustment, it means they will be closer in their calculation. But one way or the other, whatever they do --

Mr. Thompson. Somebody ought to be thinking through this. I am not saying you are not. But somebody ought to be thinking through this, because when this hits, I don't think it is going to be enough to say I am not a user of Twitter or whatever. I think we need to figure out how to better educate folks going into this.

Mr. Koskinen. Right. We are continuing to do it. We are doing the best we can. We are open to other suggestions, as I say. We have got what I call a full court press trying to get full information out to people, not only about the adjustments, but about how the calculation is made when they file their returns.

Mr. Thompson. Mr. Slavitt, you have got pretty extensive private sector experience working in the technology industry, including working on components of HealthCare.Gov. And you now, in your current position, you are leading efforts related to marketplaces and other technology innovations. And given the issues that HealthCare.Gov experienced last year, which I add that you helped to fix, I am glad that you are there given your experience. It seems to me you probably know the right questions to ask.

Looking forward to November 15, the next enrollment period, what are the markers or the benchmarks you are looking for to prove the system is ready for open enrollment?

Mr. Koskinen. So Congressman, we are in a more favorable situation when we have a functioning Web site that is already up and running. Having said that, we have new functionality that needs to be added for open enrollment next year. So let me give you a little bit of a feel for how we are approaching that. First is, we are rolling out new functionality and adding it over the summer as opposed to all at once, and so that helps us ensure that we can put things into the marketplace and test them.

Second thing, and I know we are over time, is that we have built a much longer period of time in for testing, because when software is built, people need to use it and pound on it before it can be rolled out. We are more fortunate this year in that we have more time. Having said all of this, I am a realist and we will not get it perfect, but we have, I think, the right processes in place to make it as good as it should be.

Mr. Thompson. Thank you.

Chairman Brady. Thank you.

Mr. Roskam, you are recognized.

Mr. Roskam. Thank you, Mr. Chairman.

Commissioner, the Congressional Budget Office estimates that there is going to be \$1 trillion in Obamacare subsidies over the next 10 years, and that is just a huge pool of money, as you know. You said that those who simply check a box are going to be free from a level of scrutiny, which suggests that there is going to be a significant number of people who are going to be subject to scrutiny in terms of income verification and so forth. And it seems to me like the IRS is just poised to go swimming in a huge pool of money.

So the question is, what are the things that are happening proactively to prevent the next Lois Lerner, Lois Lerner 2.0, from looking out of a landscape with a high level of discretion, to be able to say, you know what, we are going to make inquiries here and we are going to make inquiries there and we are not going to make inquiries over here. And you see where I am going.

Mr. Koskinen. Right.

Mr. Roskam. And there is a high level of suspicion.

And also, I mean, you said you are meeting with IT people every 2 weeks, and I accept at face value that you need to meet with IT people every 2 weeks, but are these the same IT people that can't find Lois Lerner's emails and can't deal with hard drives? And so what level of confidence does the American public have as they are looking out and they are saying to themselves, holy Moses. I mean, when this institution, the Internal Revenue Service, reaches its long arm into our lives and grabs somebody by the neck and shakes them up, it gets people's attention and it can be incredibly damaging.

Now, you know, the administration last year said we are basically going to do an honor system because it is too overwhelming. So what is the level of confidence that there is not an environment where Lois Lerner 2.0 is able to emerge?

Mr. Koskinen. You have asked a set of questions, and let me try to deal with all of them. First of all, and we are trying to remind everybody of this, the inspector general who filed a report about the use of improper criteria said, to fix the problem there were a series of nine recommendations that the IRS should adopt. We have adopted and implemented all of those recommendations. In our normal exam process, there is no way that any individual can single out any taxpayer for review.

Mr. Roskam. Why not?

Mr. Koskinen. Because there is a review process.

First of all, the first cut of the selection is made automatically by computer. To the extent, then, exams are decided, there are three people who meet and have to approve that; so that the system is designed and has been for some time so that no one can pick out an individual taxpayer for review. We have buttressed that with all of the recommendations the IG said we should do.

Mr. Roskam. Wasn't that true, though, in the (c)4 situation, where, I mean, look these are (c)4 applicants that rise to a level of scrutiny. They were presumably chosen by a computer by definition because they were (c)4 applicants, and then Lois Lerner makes decisions about, well, we are going here and we are going there. So you have got now another computer that is going to be deciding there is a threshold that the program presumably pops people up, and presumably those are people by your own definition who haven't checked the box.

Mr. Koskinen. Right.

Mr. Roskam. So now they are in open country.

What prevents an IRS employee from saying, I am going after you?

Mr. Koskinen. First of all, and I am waiting for the rest of the investigators to be completed, there is no evidence thus far that anybody picked an individual organization to be picked out. There were improper criteria to select an entire set of organizations. No individual organization was targeted.

Mr. Roskam. You are not defending Lois Lerner?

Mr. Koskinen. I don't know her, and I am not defending her.

Mr. Roskam. I wouldn't give her eye contact, but go ahead.

Mr. Koskinen. What I am trying to defend is that whatever the recommendations were the inspector general thought were necessary to fix the problem have been adopted, have been implemented, and I am confident that if people haven't learned any other lesson in the last year and a half they have learned this lesson, that we need to provide guarantees to the American public that they can be confident that whether it is the Affordable Care Act or any other part of the implementation of the Tax Code, if they hear from us, they are hearing from us for something in their return and that they have not been selected arbitrarily. If someone else had that same issue, they would hear from us as well.

Mr. Roskam. Commissioner, my time is waning. Let me just impress upon you one point, that I know you are understanding what I am saying, but just unambiguously, this committee has a high level of scrutiny and a high level of expectation that the administration by the Internal Revenue Service of all elements of the Tax Code are unbiased and impartial, and it is a huge background to overcome because the American public is burned, and they are not going to put up with it.

And so with that, I yield back. Thank you, Mr. Chairman.

Mr. Koskinen. I would just say, we share that view with you; that is, that the American public deserves and needs to be confident that the IRS is a tax administration agency without a political agenda, without political connections. And we stand ready to work with this committee and every one of the members of this committee to do whatever we can to make sure that that happens.

Chairman Brady. Thank you.

Mr. Kind, you are recognized.

Mr. Kind. Thank you, Mr. Chairman.

I want to thank our guests here for your testimony. And I would like to just echo Mr. Roskam's sentiment, Mr. Commissioner. We do expect impartiality and fairness from the IRS. I feel more confident with you in the seat right now with the overview and following the recommendations of the IG report that you have followed up, and I commend you for those efforts. But naturally, there is some credibility that has to be restored right now and we look, you know, forward to working with you in order to do that.

Now, let's just back up and keep today's testimony a little bit in context. Commissioner Koskinen, you, again, in your opening testimony indicated that the vast majority of Americans were merely needed to just "check a box," and they are going to satisfy what they need to do as far as showing if they have got health insurance in their lives. Is that correct?

Mr. Koskinen. Correct.

Mr. Kind. And can you break that down as far as percentage-wise, the number of Americans that are filing who just merely have to check the box and not do anything further?

Mr. Koskinen. Because it is the first year of filing, it is hard to know with precision, but our best estimate is that out of 150 million returns we will process, 125 million will simply check a box.

Mr. Kind. And that won't require a separate IRS form to do? It is built into the normal --

Mr. Koskinen. The normal 1040 will have a box. I have looked at the line.

Mr. Kind. If you are a recipient of some tax credit in the exchanges and that, there is a separate form for them to have to fill out in order to match up income verification for that purpose, right?

Mr. Koskinen. That is correct.

Mr. Kind. That won't be on a 1040-EZ; that requires a separate form?

Mr. Koskinen. That requires a separate form that we have already provided, and we are trying to educate preparers and everyone else about how to fill it out.

Mr. Kind. Mr. Slavitt, now, some of us had a recent meeting with Secretary Burwell, and she was trying to put the numbers in context, too. There is really two kind of reconciliations that are going on right now: One is income verification, but one is also citizenship verification, too. And she indicated that on the citizenship side there was initially 970,000 discrepancies or so, but that number has been drastically reduced to about 220,000. Does that sound right to you?

Mr. Slavitt. Right. So I think, in August we had sent out about 310,000 letters informing people who we have had contact with on a number of occasions that we needed to receive documentation from them in order to maintain their policy in the marketplace. Since that time, and I believe the estimate that Secretary Burwell gave you was, since that time, as deadlines have tended to do for us, we have seen an influx from individuals, and so I think that that number has been dropping below 310,000 pretty meaningfully.

Mr. Kind. And probably safe to assume that number is going to continue to go down as more people respond to the inquiries sent to them. Is that right?

Mr. Slavitt. That is right.

Mr. Kind. Now, some of this might be a little confusing for some. Is there a role for the navigators to play in order to help these individuals to send the proper documentation in order to satisfy the requirements?

Mr. Slavitt. Well, we found in the first year that in-person assistance of a variety of types, navigators certainly, but also agents and brokers and others have a tremendous role to play in helping people through, whether it is that issue or even some of the issues that Commissioner Koskinen has addressed.

Mr. Kind. Now, is that going to be true for income verification, or are there some privacy concerns that attach to that?

Mr. Slavitt. Regarding navigators, or regarding --

Mr. Kind. Yeah, the role of navigators, someone assisting the individual to get proper documentation.

Mr. Slavitt. Yeah, I think that level of assistance is available to most people and they should take advantage of that. They also can call our call center directly and we can walk people through that process.

Mr. Kind. You indicated that on average, the typical individual is getting about ten touches from you in order to match up the data that you have with what they are submitting?

Mr. Slavitt. That has been true for citizenship and immigration status, and for other categories it has been five or six.

Mr. Kind. And what form of information are the individuals getting? Is it more detailed? It is not just a letter saying, hey, something doesn't match up, or is it this is what you are missing? Can you --

Mr. Slavitt. So we have tried reaching out to them with letters. We have also had the health plans directly reach out to them with some success, as well. And then where we haven't had success we have used the

telephone, we have called them, and we have attempted to walk people through them. We understand that for a lot of people, this is their first time through a process like this, and sending information to some place that they are not familiar with isn't always the most comfortable thing.

Mr. Kind. Commissioner Koskinen, back to you again, the income verification information you are looking for is really no different from what a typical taxpayer may have to do. If something doesn't match up with their income that they are submitting through the W-2 form or whatever, such as if they are missing a 1099 or something, they will get a notification from the IRS saying, hey, something doesn't match up here. Is that right?

Mr. Koskinen. That is correct. Although, initially, we expect that, as with all tax returns, people will make that calculation themselves. As I say, when we all do our withholding, we make an estimate as to what we are going to end up owing and it always is a different number at the end and it is the same way here.

Mr. Kind. And that has been going on for years and we haven't seen the demise of western civilization with that practice, have we?

Mr. Koskinen. Not yet.

Mr. Kind. Okay. Thank you. Thank you, Mr. Chairman.

Chairman Brady. Some would argue differently, Mr. Kind.

Dr. Price, you are recognized.

Mr. Price. Thank you, Mr. Chairman. I want to thank the witnesses as well for the information. I have found much of this fascinating.

Our friends on the other side of the aisle seem to be waking up to the fact that it is a complex program that it is requiring things of Americans and patients across this country that haven't been required before and may be significantly problematic. In fact, the CEO of H&R Block, Mr. Koskinen, says that Obamacare would add significant complexity to the tax system, and I think that the questions from Mr. McDermott and Mr. Thompson actually outlined that. And Mr. Kind put the punctuation point on it, and that is that anybody who fills out their form today, tax form today, 1040-EZ, simple form, good thing for consumers, good thing for citizens, but if they have any change in their work status, any change in their income, will not be able to fill out the 1040-EZ. Is that correct?

Mr. Koskinen. No. That is an overstatement of the situation. They will not be able to use the 1040-EZ if they have received an advance payment on a premium tax credit. A lot of people use the 1040-EZ who are going to be part of that 125 --

Mr. Price. But those 25 million that you estimate, I suspect is going to be greater than that, because millions, tens of millions, if not over 100 million Americans see some change in their income --

Mr. Koskinen. Right.

Mr. Price. -- throughout the course of the year. The fact of the matter is that they are not going to be able to use the form that they used before, they will be required to use another form.

Mr. Koskinen. That will be --

Mr. Price. In fact, if they go to the site that you identify, that is not even done automatically, right? If --

Mr. Koskinen. Right.

Mr. Price. If they go to the marketplace, as you call it, go to the exchange now and they say, my income just went up, is that automatic?

Mr. Koskinen. No. First of all, I would like to make it very clear: Millions of people use the 1040-EZ and they are going to continue to use the 1040-EZ. The people who are going to actually have to make a separate calculation are only those who actually get advanced premiums on the premium tax credit or are applying for the premium tax credit.

Mr. Price. Millions of folks. Is it automatic when they go on the site and identify that they have in -- either increased their income or decreased? Isn't that a manual process now?

Mr. Koskinen. I don't know what happens on the Web site, so Mr. Slavitt would have to tell you.

Mr. Price. Is that a manual process at this point?

Mr. Slavitt. If someone has a change in status of any variety, income, of several varieties, they have children, a divorce, a loss in the family, we ask them to come back to the Web site and update their information.

Mr. Price. Is that a manual process now or is that an automatic process?

Mr. Slavitt. It is automated. Once they update it, it is automated.

Mr. Price. I know you have only been with them for 2 months now, and I won't hold you to account on that, but please go back and check.

Mr. Slavitt. Okay.

Mr. Price. Let me get some basic information, Mr. Slavitt. How many folks are enrolled through the exchange?

Mr. Slavitt. As of the end of the last open enrollment period, there were -- I think the number was some 8 million people that had enrolled in coverage.

Mr. Price. How many?

Mr. Slavitt. Some 8 million had enrolled in coverage.

Mr. Price. 8 million. How many of those folks had insurance coverage before?

Mr. Slavitt. I don't know.

Mr. Price. You don't know.

Mr. Slavitt. I don't.

Mr. Price. HHS doesn't know how many folks had coverage before but now were forced into the exchange?

Mr. Slavitt. We do know that we have seen the uninsurance rate drop significantly in the second quarter. I think that tells us that there are a lot of people through the exchanges or through Medicaid --

Mr. Price. Wouldn't it be helpful to know how many had insurance before to see whether or not the system's working?

Mr. Slavitt. Sure. We also -- that is fair. We also don't want to overburden people by asking them needless questions when they are applying for insurance.

Mr. Price. Well, we ought to poll the American people as to whether or not you are asking them needless questions.

How many folks had coverage through the workplace before the Affordable Care Act went into effect?

Mr. Slavitt. I don't know the exact number. I believe some 96 percent of people who have coverage have it through their workplace. I haven't seen --

Mr. Price. 159 million sound somewhere in the range?

Mr. Slavitt. Sounds -- sounds right.

Mr. Price. How many folks have coverage through the workplace now?

Mr. Slavitt. I haven't seen an updated study.

Mr. Price. Well, I would urge you to look. Again, I know you have only been there for 2 months and it is a lot of numbers, but that number has gone down.

Mr. Slavitt. We will do, Congressman.

Mr. Price. So the place where folks have been getting their coverage that has worked for them for years and years and years has decreased the numbers of individuals.

You talk about costs going down. In fact, costs are actually going up, by HHS's own admission. Average of 7 percent increase in premiums in the next year. With the higher deductibles that folks are having, paying -- the deductibles for many people now are between 4 and \$12,000 a year. Let me suggest to you that an individual making \$50,000 a year, a family making \$50,000 a year who has a 6- to \$8,000 deductible, that is not a person who can afford a 6- to \$8,000 deductible. That is how you have shoved everybody into these programs.

The increase in bad debt in physician's offices across this country in the exchange is up 60 percent, 60 percent. Those folks are going to have to figure out what to do, and it is not going to be able to continue to provide coverage for people.

I want to touch on identity theft. You all had a hacker break into the system, correct, in July?

Mr. Slavitt. That is correct.

Mr. Price. When did you know that?

Mr. Slavitt. August 25th.

Mr. Price. When did you notify the Federal authorities?

Mr. Slavitt. I believe it was within 10 days or so of that.

Mr. Price. When did you notify the insurers that were participating in the exchange and covering those lines?

Mr. Slavitt. At the very same time. There was no impact to the insurers, but at the very same time.

Mr. Price. The fact of the matter is, as you should know, is that the insurers found out about this through the press, through the press. If we are going to protect people's personal information, especially as it relates to health care, and not notify those individuals and not notify the insurers who are trying to protect as hard as they can the information that they have, this is unconscionable. This is what the American people are concerned about.

Mr. Slavitt. Congressman --

Mr. Price. I think that we have underscored once again the challenges with this law, and urge you to get the facts, look objectively. You spent a significant amount of time in United Health Care and Optum. You -- talk to those folks. I have talked to them recently. The fact of the matter is what CMS is doing right now, what HHS is doing right now with the ACA isn't working in the real world. I would urge you to talk to your former colleagues. They will shed a whole lot of light on what is going on.

Mr. Slavitt. Congressman, thank you. You want you to know I did personally call a representative of the Insurance Association to inform them.

Chairman Brady. Thank you, Dr. Price.

Mr. Pascrell, you are recognized.

Mr. Pascrell. Thank you, Mr. Chairman, very much.

Look, Commissioner, you know what is going on here. If you can't shoot the dog, starve it. That is what this is all about. In the budget itself, in the budget itself, the House bill as amended for the appropriations, the total IRS funding in 2015 would be about \$9.8 billion, which is 19 percent below 2010, when the ACA became the law of the land. So we are -- in every manner, shape or form, in every hearing that we have had here, and I have a great respect for every Member of our side as well as the other side, but we know what it is: Starve it and it will go away, it will disappear, it will die.

I mean, there are some great things that are happening in the ACA, even to -- its detractors know that. They won't admit it. They will not admit it.

So we know how many people we have enrolled, and we know how many people have received tax credits. We are trying to verify all of them, which is true. You want to know the mess we had 10 years ago on the prescription drug bill? Nobody wants to talk about that. This is half a story you get here, and there is a reason: We are going to starve the dog. We are not going to shoot it, because they haven't found the way to do that, either. And, again, 6 million more people are enrolled in Medicaid. Or the Children's Health Insurance Program, you don't want to talk about that, do you, what you have done to it?

So the United States uninsured rate continues to decline. It is about 13.4 percent now. Correct me if I am wrong, gentlemen.

Mr. Slavitt. That is correct.

Mr. Pascrell. Thank you. Before the ACA, many people were paying for plans that didn't provide them with the coverage they needed. Some of these people that have lost their coverage are better off now because

they had to go into the exchange and they got better plans. Let's talk about that. And for those who are falling through the cracks, we have an obligation to them, too. Nobody's denying that.

I like to talk about this at town meetings. I hope you do, too. And I am sure you will be objective and tell the good with the bad.

Americans are denied coverage for pre-existing conditions and insurance companies arbitrarily increase their premiums to the point where they can't afford it. You talk about 7 percent increase. I will tell you what the increases were for each of the last 5 years.

My Republican colleagues refuse to acknowledge any benefits that have resulted from this law. And it is not a perfect law, Mr. Commissioner. We have never passed a perfect one, believe it or not.

Unlike the Part D Medicare prescription drug plan, where Democrats who voted against the bill came together and helped educate and enroll seniors, I voted against that, but I went back to my district to initiate those folks, the seniors, with what this plan was all about, they have done nothing to do that. They haven't cooperated in the least.

So my question to you is this, Mr. Commissioner. And thank you -- I was here the last time you were grilled, and you handled it very, very well, you kept your cool. Continue to keep your cool, Mr. Commissioner.

My Republican colleagues are fond of attacking the Obama administration at every step of the Affordable Care Act's implementation. They have expressed outrage over the delays, but at the same time, refused to give the agencies the funding. That is a big cut, 20 percent. The House appropriations bill for fiscal year 2015 that would set the funding at 19 percent below what it was 4 years ago.

Mr. Commissioner, can you explain how budget cuts have affected your agency's ability to implement the ACA?

Mr. Koskinen. We view, as I have said on numerous occasions in the past, implementing the Foreign Account Tax Compliance Act, FATCA, and the Affordable Care Act are statutory mandates that we have an obligation to implement, so whatever else it means we are not doing, we are going to implement both Acts this year in the filing season. As I noted, by not providing the \$430 million for fiscal 2014 or the \$450 million for fiscal 2015, it simply means that we have to take that money from the other places we have available.

Mr. Pascrell. So therefore --

Mr. Koskinen. It is either enforcement, taxpayer services, or continued improvement in --

Mr. Pascrell. So you are moving dollars around?

Mr. Koskinen. We have to move the dollars around.

Mr. Pascrell. The Affordable Care Act, Mr. Chairman, so far has had little impact on the insurance people get through their jobs, with roughly the same share of employers offering coverage in 2014 as last year, to correct the record.

Chairman Brady. Thank you, Mr. Pascrell.

Mr. Pascrell. May I just finish my point?

Chairman Brady. Very quickly.

Mr. Pascrell. As you have allowed other folks to. I appreciate that.

Chairman Brady. No. We have been -- I tell you what, we have been very close to time on everybody. And certainly finish.

Mr. Pascrell. And you have been very, very charitable in --

Chairman Brady. Thank you, sir.

Mr. Pascrell. -- with all of us. Thank you.

The employer sponsored health insurance premiums were rising about 3 percent. I would like to enter this report from the Kaiser Family Foundation on employer health benefits since that seems to be of interest to my friends on the other side. Thank you, Mr. Chairman.

Chairman Brady. Without objection.

[The information follows: [The Honorable Bill Pascrell](#)]

Chairman Brady. Mr. Buchanan, you are recognized.

Mr. Buchanan. Thank you, Mr. Chairman. I also want to thank our witnesses for taking their time to be here today.

Mr. Commissioner, let me just ask about subsidies people have brought up. One of my colleagues mentioned about getting a \$5,000 increase, but what happens -- at least in Florida, I see a lot where you have realtors that are independent contractors, you have a lot of people that have a minimal salary but they are on commission, or you have minimal salary where they get subsidies, but they might get a year-end bonus. How do you address that? Or somebody, for example, that one year as a realtor where real estate hasn't been great for a period of time, but Florida is back now, was making \$30,000 a year, now he might make 100 this year, the next year make 30. How do you deal with -- you know, I would say that is a large percentage of people that are employed in America are in those circumstances where they don't have a fixed salary at \$60,000 a year. They might earn 70, but it is based on how they do over the year --

Mr. Koskinen. Right.

Mr. Buchanan. -- in terms of bonus, commissions or other things. How do you address that in terms of subsidies one year making 30, and the next year making 150, the following year making 30?

Mr. Koskinen. Those -- it is a situation many people face. They face the same issue when they file their estimated taxes or make W-2 determinations. They make an estimate, their best judgment as to what they are going to owe in taxes. Everybody tries not to owe taxes at the end of the year, so over 80 percent of the people who file actually get refunds every year. And so they are going to make the same kind of judgment here. They have to make an estimate when they file for withholding or when they file estimated taxes, they have to make an estimate here if they are going to apply for the premium tax credit. At the end of the year when they file their tax return, much as when they reconcile their income generally on their overall taxes, they will make a reconciliation as to whether they got too much or too little on their premium tax credit in the advanced payment.

Our expectation is, just as people adjust their estimates for withholding, and they usually over withhold to make sure they take into that account, that we expect that a lot of people when they make their estimates, if they are fluctuating like that, will estimate on the low side, will have a lower --

Mr. Buchanan. Well, it sounds like you have got a pretty good handle on, you know, all these variations of possibilities.

Mr. Koskinen. Well, we expect them to kind of mirror the normal variations people make when they have to estimate how much to pay in estimated --

Mr. Buchanan. Thank you. I want to kind of move over to Mr. Slavitt real quick.

You have been in the healthcare-related industry for how many years?

Mr. Slavitt. 20 years.

Mr. Buchanan. Yeah. Let me just tell you, as someone that has been in business before I got here 30 years and bought a lot of health care for a lot of employees, I think we have got quality health care, but it is -- my biggest concern is cost. I think it is -- everybody likes to talk about the middle class, I grew up in the middle class, but it is bankrupting the middle class, cost. It is not unusual in my area, I represent a part of Florida, but I am the only member in Florida, where you have someone between 50 and 65 years old, I do a lot of town halls, that are talking their costs for them or maybe their employees, but ideally for them and their family of four could be as high as \$2,000 a month. That is not unusual, \$1,500 to \$2,000. So I am very concerned about health care in general, and I see the costs continuing to go up. As someone that has employed a lot of people or I talk to a lot of people back in the district, they get a bill every year, even since the ACA, going up 10 to 20 percent a year, cost of living is 2 to 3 percent, and this has been going on for, it seems like, 10 or 15 years. It is one of the biggest concerns we have got, is health care. It is not that we don't have good providers, but the cost is bankrupting, in my opinion, the middle class. What do you say to that? Do you think -- do you share that concern.

Mr. Slavitt. Yes. Congressman, you are -- you are exactly right. You know, affordability --

Mr. Buchanan. I don't use the term "bankruptcy" --

Mr. Slavitt. Right.

Mr. Buchanan. -- lightly, I am an optimist, but it does concern me when people are paying \$1,000 to \$2,000 a month for health care along with all their other costs, and I don't see that changing.

Mr. Slavitt. Yes.

Mr. Buchanan. Go ahead.

Mr. Slavitt. Yes. Congressman, affordability is one of the three critical pillars of our implementation, along with quality and access. And I think there are a couple things that are, I think, highly encouraging, although early still: one is that the premium levels that people are paying are at much more affordable levels; second is I think those in business and those who are individual health plan members for some time are used to things like double digit rate increases. And I think, you know, the five or six States that have publicly put forward the rates that they are going to have for 2015 are all in the range of single digits. I think Arkansas was a couple percent, I think Delaware was a couple percent, I think California was 4 percent. So these are relatively --

Mr. Buchanan. I would take -- just do me a favor and take a look at Florida. I have met with one of the largest providers in the State and did a lot of our stuff, one of the largest, met with the CEO for the State.

Mr. Slavitt. Yep.

Mr. Buchanan. And, you know, they are talking -- I don't know what they are going to be. It is going to 20, 40 percent. They are losing a lot of money, because they have got the sickest in Florida, a lot of them that are joining up and they are very concerned. They used to make tens of millions, now they are making zero. So I can see what is going to happen to -- you know, from that standpoint, so I am very concerned about that.

Let me mention one other thing I wanted to bring up. The insurance companies in our State have been in to see me that they are looking to the Federal Government, because they were promised or felt they were promised that they would make a certain return or somehow the government would underwrite their losses. What is your sense of that? Is there any -- are insurance companies going to have the opportunity to come back to the Federal Government and get subsidized somehow?

Mr. Slavitt. So let me follow up in writing, given that I am out of time, but, no, that is -- that is not going to be the case.

Mr. Buchanan. That is what they are looking for.

Chairman Brady. Thank you. Time has expired.

Mr. Blumenauer is recognized.

Mr. Blumenauer. Thank you, Mr. Chairman.

Commissioner, I appreciate your coming back for another round.

Mr. McDermott. You might push your mike.

Mr. Blumenauer. My mike was on. It is not --

I will try Mr. Pascrell's, not that he needs a mike.

Chairman Brady. It always seems to work.

Mr. Blumenauer. That is right.

Mr. McDermott. He turned that off.

Mr. Blumenauer. Mr. Commissioner, I appreciate your joining us for another round. I particularly appreciate the end of your testimony where you were talking about needing the resources to be able to meet the needs of people, not just with the Affordable Care Act provisions, but just the ongoing challenges of trying to administer an IRS Code that Congress repeatedly makes more complex. No IRS employees are complicating the Code. That is our job.

I had the occasion last month to just sit down in a large sort of brown bag discussion with your employees in Portland, and I was -- I was struck by how frustrated they are. They don't want people on hold for 45 minutes. They want to be able to meet their needs. And I would just urge you to be relentless in driving this point home that we can't continue to cut the IRS budget, reduce staffing, make the Code more complex,

and then beat up on the IRS and still expect that we are going to keep the highest compliance rate in the world for over 150 million taxpayers. I appreciate your forthrightness, and I would just encourage it.

And I would hope that individual members of this committee in particular could sit down in a shirtsleeve session off the record, no cameras, and just meet with the men and women who are trying to meet the needs of our constituents. I have found it instructive every time I do it, and I think maybe if more of our members did that, we might look at the budgeting a little different.

But I would just say, Mr. Chairman, I appreciate your ongoing efforts and your evenhandedness, even allowing us to slide over for a second or two, and your good humor. I also appreciate that you have been looking at a draft kind of tying together some elements that a number of us have co-sponsored on the committee, good work from Mr. Roskam, Mr. Gerlach.

I have indicated in the past that I hope we can shift gears and get to the point where we can actually have hearings on things that can pass and don't have anything to do with the Affordable Care Act. I would note the legislation I have with my good friend Dr. Roe helping make sure that end of life care has a value. And we put it in the Affordable Care Act. It somehow wasn't included in terms of reconciliation. But in terms of what we do with Medicare, card identification, the secure card, the Prime Act, Congresswoman Black and I have some legislation dealing with value-based insurance. There is a whole host of things that we could be making progress on. Put them on the floor. They will pass. They will make the system better. They are not going to make the nightly news, but collectively we will be doing our job. And I hope we can minimize hearings that are just beating up on people for things beyond their control, that actually we kind of make their job harder, and that we get down to cases.

I appreciate the draft that you are circulating. I look forward to supporting it. And the other references that I have made of bipartisan legislation that will make a difference, that can be approved, they could -- some of these could roll out before we adjourn for October, and certainly in the lame duck when we will be standing around trying to figure out what to do, waiting for the powers that be on the big stuff, we could get some good things going and give Congressman Gerlach a going-away present with important legislation that will make a difference.

Thank you, Mr. Chairman. Again, I appreciate your good humor and your evenhandedness, and I would respectfully request that maybe we could put that to work on some legislation that will pass before we adjourn for the year.

Chairman Brady. Thank, Mr. Blumenauer. I want to -- I share your belief that while we have very strong differences on the Affordable Care Act, and a hearing like today is really about finding out what our families and patients and taxpayers have to face in the second year, there are legitimate questions that need to be asked. But we are also trying to create a climate where we can take the good work that is being done by these committee members on all those areas that you have an interest in, I think we have a bipartisan interest in, in legislation and move that forward. So we have got some work to do in each of those areas. We are trying to work through these final points, for example, on the -- our fraud, bipartisan fraud bill and some other issues as well. So look forward to working with you. Thank you.

Now, Mr. Smith, you are recognized.

Mr. Smith. Thank you to our witnesses today for your time here and sharing your insight and expertise. I think between the two of you, you do have vast insight, perhaps Mr. Slavitt, you bring some objectivity as a relatively new employee over at CMS.

Let me start. Commissioner Koskinen, the waivers that are offered by HHS or CMS, does IRS keep track of those waivers?

Mr. Koskinen. Yes. We have got a very, I think, positive working relationship with HHS and CMS. And to the extent that exemptions or waivers are created, they get built into our system as well, and so we are -- we need to be aware of those, because obviously when people file their taxes, that we have a form that allows them to identify the exemption that applies to them.

Mr. Smith. What percentage of the American population files a Federal tax return?

Mr. Koskinen. Well, that is a very good -- a good question, because if you are below a certain income level, you are not required to. We have 150 million returns that are filed every year, and it is obviously the vast majority. I would be happy to get back to you, because I have never actually asked that question as to how many people do not have to file a return.

Mr. Smith. I mean, because we have heard earlier that, you know, there are so many great and wonderful things that have come about, and yet we know that the enforcement of and the benefits perhaps to some, benefits of the healthcare situation here are offered through the Tax Code. So are there concerns that perhaps there might be some beneficiaries out there who would not see the benefits or the complications associated along the way?

Mr. Koskinen. Thus far, our experience has been, as a general matter, and there are a number of tax credits that have been written into the Tax Code that we administer, the vast majority of people take advantage of those credits. We do run the earned income tax credit program, and part of our goal there is to make sure everybody who is eligible for the credit knows about it and uses it. In that case, about 80 percent of the eligible people for the earned income tax credit actually take advantage of it. So I am sure if everything continues to go as it usually does, there will be some people who are eligible for the premium tax credit and support for health care who may not take advantage of it.

Mr. Smith. Okay. Thank you.

Mr. Slavitt, let's talk about the individual mandate briefly. Can you give us an update on the individual mandate? Obviously the administration is choosing to stick with the individual mandate in contrast to delaying the employer mandate. Is that accurate?

Mr. Slavitt. The individual mandate, yes, is law and we are -- we are administering and implementing the law that way, yes

Mr. Smith. And what would you say is a rough, I am not expecting exact, but a rough compliance rate with the individual mandate?

Mr. Slavitt. I don't think that will be known until after we get through the year and through tax season, but in any event, I don't have an estimation, and I would be happy to try to get one to you, if it is possible.

Mr. Smith. So penalties being levied would take place when?

Mr. Slavitt. I think through the Tax Code, is my understanding.

Mr. Koskinen. It would be -- it would be this year. There is no --

Mr. Smith. No. I know. That -- that is the how; but the when.

Mr. Slavitt. During the tax filing season.

Mr. Koskinen. It will be when you file your return, on the 1040-A, you will check either I have got coverage or I have a premium tax credit.

Mr. Smith. Wait. We are through one tax-filing season where that question has been asked, correct?

Mr. Koskinen. No. It did not apply last year. So the 2014 filing season for tax year 2013 did not have any requirement for individual shared responsibility payment. The first time it will take effect --

Mr. Smith. But the question was asked about health care, was it not?

Mr. Koskinen. No. In other words, the tax returns last year did not have Affordable Care information in them.

Mr. Smith. Okay. So -- but then in this next tax-filing season, it will.

Mr. Koskinen. This coming spring for the 2014 tax year, we call it filing season 2015, because --

Mr. Smith. Okay. If someone marks "no," can you share what happens from that point forward?

Mr. Koskinen. Yes. If you mark on your return that -- "no," and you don't -- aren't eligible for an exemption or a waiver, and there is a form you can fill out, then what happens is you will do a calculation and you will have the responsibility, the additional tax for this year is the \$95 per individual capped at \$250, give or take a little, for a family.

Mr. Smith. Would that be considered a penalty?

Mr. Koskinen. Well, it is an additional tax. You can call it, you know -- you can call it a penalty. Whatever it is, you will owe that amount of money.

Mr. Smith. It is avoidable, you are saying?

Mr. Koskinen. Pardon?

Mr. Smith. It is avoidable?

Mr. Koskinen. It is not avoid -- it is avoidable if you are eligible for an exemption, and there are a significant number of exemptions available for people who don't -- who had short -- lack of coverage for less than 3 months, people who have particular hardships can provide that information, some religious affiliations will be able to provide that information. There are a series of exemptions. So it is avoidable to that extent, but if you don't qualify for an exemption, then you will owe the additional tax.

Mr. Smith. Thank you. I yield back.

Chairman Brady. Thank you.

Ms. Black is recognized.

Ms. Black. Thank you, Mr. Chairman. Thank you for holding this very important hearing. I appreciate being a non-member of this committee and having an opportunity to be able to ask the witnesses questions. And thank you, by the way, for being here.

Commissioner, I want to go back to a line of questioning that my colleague from Florida was talking about in relation to income accuracy in the filing process. And I think that I have probably -- I think I remember bringing this up the last time we had a hearing on the oversight, and that was the idea of the E-FLEX Coalition.

Mr. Koskinen. I am sorry. E-FLEX --

Ms. Black. The E-FLEX Coalition made a specific recommendation to make the administration of the tax credits more accurate. They suggested, and I quote, their suggestion is, "giving employers the option to prospectively file information with the IRS about the coverage available to employees through an annual certification process."

Their letter went on to say, we believe that it is in the collective best interests of individual Americans, the employers and the administration to ensure accuracy -- which is what my colleague was talking about -- on such upfront determinations to avoid the subjecting of individuals to unexpected payments of any credits for which the exchanges incorrectly deemed them to be eligible.

Now, the Treasury during the rule writing process rejected that recommendation. Do you believe, given what we are going to be seeing, as my colleague referenced, that sometimes the -- especially for those that are in sales where their income may be here and the next year it might be down here, that it would be helpful to have that information prospectively?

Mr. Koskinen. Well, tax policy matters are determined by the Treasury Department and the Congress. We are just the tax administrators, so we follow whatever the rules are.

As I noted, every taxpayer makes an estimate in advance as to what their income is going to be in the following year and then they reconcile it when they file their tax return and they know exactly what they earned. Where taxpayers have variety and they have bonuses or they are on commissions, in the normal process of filing their taxes, they make estimates, and they generally make estimates trying to make sure that they don't owe any more tax than usual, which means that is why most people get a refund.

We expect that with regard to those who qualify for the premium tax credit and are applying for an advanced payment, they will adjust and make the same kinds of estimates that they make for their withholding purposes.

Ms. Black. But the system is more complicated when you are having to go back and figure out, okay, do taxes. Now, let's just say someone has earned more than what they anticipated. Will there be a call-back?

Mr. Koskinen. Not a call-back. If you have earned more than you anticipate and you have been getting you advanced payment --

Ms. Black. Right.

Mr. Koskinen. -- paid to your insurance company, the payment doesn't come to you, at the end of the year, if you, in effect, have claimed more of a credit that has gone to your insurance company, you will either have a smaller refund or more tax owed, yes.

Ms. Black. So it will just be withheld from them. That won't be -- let's say that they don't owe -- or they are not due a return. And so what will happen then, because you can't withhold something from someone who wasn't due a return? How will you retrieve the money that has been paid out for an advanced tax credit?

Mr. Koskinen. They would be treated the same way any tax collection process. We would match up, we would determine if there is an amount owed. The first thing we usually do is send people a letter saying we see a discrepancy in your return. Can you explain what the issue is.

In fact, I would just make a plug here. We are trying to make people understand. We contact taxpayers by letter first. So if you are hearing from us by phone for the first time, the chances are pretty good you are not hearing from us. There is a significant amount of tax scamming going on that we are concerned about.

But in any event, we would advise the taxpayer. And they would be treated the same way any taxpayer was who had an amount owing, or at least some apparent discrepancy in what they filed and what they owed.

Ms. Black. It seems so complicated. It seems to me it would almost be better for us to say, what was your income this year, and then having the filing date maybe 2 months after they know what their income is at the end of the year. So moving the signup to maybe February so they know what their income was last year and you can go on that, but it seems like a very complicated system.

Let me go to Mr. Slavitt on an issue that you did actually mention, and that was the end-to-end testing. And we know that the end-to-end testing is a critical step in preparing for that successful 2015 open enrollment. Last year the testing occurred far too late, and we know that there was not time to correct those problems. And so you did mention that there is a new functionality and you are going to be rolling that out over the summer. Does this include testing of the auto enrollment renewal transaction process as well?

Mr. Slavitt. Yes, Congresswoman, that will be tested. I believe it is slated in October.

Ms. Black. Slated in October.

Mr. Slavitt. Yeah.

Ms. Black. So that is -- the --

Mr. Slavitt. The auto --

Ms. Black. -- signups -- okay. And the signups will begin when?

Mr. Slavitt. So recall that the auto enrollment functionality will occur in December --

Ms. Black. In December. Okay.

Mr. Slavitt. -- because that is when --

Ms. Black. You won't test it until November?

Mr. Slavitt. We will be -- so to give a quick overview of the process, and I know I am over time, people will have -- the beginning of open enrollment is November 15th. People will have an opportunity to come back, shop, and select a plan. The functionality you are referring to is what do we do in the occasion when somebody is enrolled in a plan --

Ms. Black. Right.

Mr. Slavitt. -- but doesn't come back.

Ms. Black. Right.

Mr. Slavitt. December 15th, we will automatically enroll them in their existing plan, presuming that that plan is still offered through the marketplace.

Ms. Black. But you are doing some testing on that as well?

Mr. Slavitt. We will -- we will test, we will test everything.

Ms. Black. Okay. So have you worked with the insurers on this testing?

Mr. Slavitt. So our initial testing with insurers actually is beginning this week with a group of insurers we call alpha insurers, and then in early October, we will invite all the insurers to begin to do their testing, end-to-end testing with the goal to make sure that when someone comes through the process, at the end of it, they get an 834 and they can return one back to us.

Ms. Black. Okay. Thank you very much.

Thank you, Mr. Chairman.

Chairman Brady. Thank you, Ms. Black.

Commissioner Koskinen, I just want to follow -- I am not sure we got a clear answer on one part of Representative Black's questions. If your income changes or if some reason there is an overpayment of subsidies, there is a cap on your overpayment depending upon your income, but if you were given, for example, affordable -- offered affordable insurance at work and you don't take it, you are not eligible period. The law is very clear that all of that must be repaid. Will you be following -- following the law in the collection of that in that instance in the ineligible subsidy?

Mr. Koskinen. Yes. If somebody is ineligible and has received a credit, they will be treated the way anybody else would be in our compliance process.

Chairman Brady. No, no, no. The question was, the law in that case, there is not a cap. All of the subsidy must be repaid. Will you be following the law in that recapture?

Mr. Koskinen. Yes. Wherever we can, we follow the law.

Chairman Brady. Whenever we can. I encourage you to follow the law --

Mr. Koskinen. Right.

Chairman Brady. -- in all instances. And I had so many things going through my mind at that point. Commissioner, thank you for being here.

Mr. Slavitt, I know my office has reached out to you as well from a letter that Ms. Black, myself and others sent to Ms. Tavenner in August regarding the issue of the abortion surcharge, if you recall from the law that was a sensitive issue. The resolution was that consumers could know which plans provided those services, to choose one or the other, and if they did, there would be a separate charge to that. That was very clear. We sent a letter asking for a written response from the agency. I would encourage you to encourage the agency to respond as soon as possible.

Mr. Slavitt. Yes, chairman. We are -- we have the letter.

Chairman Brady. Great.

Mr. Slavitt. We are working on it.

Chairman Brady. Great. Thank you very much.

I want to thank the witnesses for being here today. There are still a lot of questions dealing with the law going forward, but we will work together on this.

I do want to recognize Dr. McDermott for a special notice.

Mr. McDermott. Thank you, Mr. Chairman. Before we close the hearing, I would like to say a few words about a departing staff member, Askia Suruma is leaving the committee after 21 years in Congress -- or working for Congress. He is the staff director of the Democrats on the committee and the staff director on the Oversight Committee. Prior to coming to this committee, he was a staff director -- senior staff director for the Rules Committee and worked with Martin Frost from Texas. He is leaving to go to George Washington University, and we are grateful for his time here and wish him all the best, and please join me in thanking him.

[Applause.]

Chairman Brady. Thank you for all your hard work.

With that, the witnesses, members do have 14 days in which to submit questions. Encourage the witnesses to respond as quickly as possible. Again, thank you for being here today. Hearing is adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned.]