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MINORITY CHIEF COUNSEL

September 30, 2015

Mr. Andrew Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Mr. Slavitt:

On July 30, 2015, the Department of Health and Human Services Office of the Inspector General (OIG) raised concerns over the oversight of the Consumer Operated and Oriented Plans (CO-OPs) by the Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS).[1] In its report, the OIG made several recommendations to improve the program and protect taxpayer dollars. We write today seeking additional information regarding CO-OPs, the OIG report, and the actions CMS is taking to ensure taxpayer funds are protected.

We have long been concerned about the financial solvency of CO-OPs. Federal spending, consisting of both start-up and solvency loans, totals $2.4 billion to date.[2] As you are aware, earlier this year, CoOportunity Health, the CO-OP serving Nebraska and Iowa, went bankrupt and was liquidated by the state of Iowa after only one year of offering health coverage.[3] In July, Louisiana Health Cooperative announced it would be closing.[4] In August, Nevada Health CO-OP announced to their 14,000 subscribers that it too would close by the end of 2015.[5] And in September, New York State told Health Republic Insurance of New York to stop writing new policies and to shut down

[1] Department of Health and Human Services Office of Inspector General, Actual Enrollment And Profitability Was Lower Than Projections Made By The Consumer Operated And Oriented Plans And Might Affect Their Ability To Repay Loans Provided Under The Affordable Care Act (July 30, 2015).
[2] *Id.*
[3] Anna Wilde Mathews, *State Regulators to Shut Down Insurer CoOportunity Health*, WALL ST.J (Jan. 23, 2015).
[4] Timothy Boone, *Louisiana Health Cooperative discontinuing insurance operations after being created with federal funds under Obamacare*, NEW ORLEANS ADVOCATE (July 26, 2015).
[5] Jackie Valley, *Nevada Health Co-Op to close, leaving thousands to find new insurance*, LAS VEGAS SUN (Aug. 26, 2015).

operations.[6] These four CO-OPs received approximately $146 million, $66 million, $65.9 million, and $265 million respectively in taxpayer funds.[7] It is highly unlikely these loans will ever be fully repaid, and taxpayers will be forced to pay for the losses of these failed programs.

Furthermore, according to the OIG report, more CO-OPs remain in serious financial trouble.[8] The report found that from January 1 through December 31, 2014, 21 of the 23 CO-OPs incurred net losses and more than half of the 23 CO-OPs had net losses of at least $15 million.[9] One CO-OP, Kentucky Health Cooperative, had a net loss of more than $50 million in 2014 alone.[10]

The credit ratings firm Standard and Poor's (S&P), found the medical loss ratios were more than 100 percent for several CO-OPs, which suggests that these CO-OPs spent more in healthcare claims than they received in premiums.[11] S&P noted that, as of September 2014, 11 CO-OPs had worse loss ratios than CoOportunity Health, which closed earlier this year.[12]

While the OIG report was helpful in providing much-needed information on the CO-OPs, including enrollment numbers and income data, it unfortunately confirmed many of the concerns we have long expressed about the CO-OPs ability to repay federal loans. We look forward to working with you to improve oversight, accountability, and transparency of the CO-OPs, and most importantly, to protect taxpayers who stand to lose when they fail. To assist the Committee, please provide the following no later than October 14, 2015:

1. According to the OIG report, CMS has recently placed four CO-OPs on enhanced oversight or corrective action plans, and two CO-OPs on low enrollment warning notifications. Which plans have received these warnings or have been placed on corrective plans? Describe the criteria used to determine CO-OPs subject to increased oversight. Also, please provide all corrective action plans.

2. What criteria does CMS use to determine the financial solvency of CO-OPs? Since the publication of the OIG report, has CMS instituted any additional

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[6] Rick Karlin, *Health Republic Insurance of New York co-op is closing*, ALBANY TIMES-UNION (Sept. 25, 2015).
[7] Kaiser Family Foundation, Consumer Oriented and Operated Plan (CO-OP) Loans Awarded.
[8] Department of Health and Human Services Office of Inspector General, Actual Enrollment And Profitability Was Lower Than Projections Made By The Consumer Operated And Oriented Plans And Might Affect Their Ability To Repay Loans Provided Under The Affordable Care Act (July 30, 2015).
[9] *Id.*
[10] *Id.*
[11] Bob Herman, Co-op insurance plan finances should be watched closely, Modern Healthcare (Feb. 14, 2015).
[12] *Id.*

requirements? Please provide the Committee with all relevant guidance issued.

3. The OIG recommended CMS work with state insurance regulators to identify and correct underperforming CO-OPs. What steps has CMS taken to work with state insurance regulators to identify underperforming CO-OPs? Has this coordination resulted in identifying any CO-OPs for additional oversight? If so, which CO-OPs? What additional oversight measures are planned?

4. What criteria were used to determine whether CO-OPs received additional funds after their initial start-up financing?

5. In the event that a CO-OP appears unlikely to repay its loans, what steps will CMS take to protect taxpayer dollars? How does CMS plan to recoup these losses?

6. Please provide the terms and conditions for all CO-OP recipients, including any modifications. Additionally, are there any conditions limiting compensation to CO-OP agents, including employees, contractors, executives and directors? If so, what are these conditions and how does CMS ensure compliance?

We thank you for your attention to this matter and look forward to a timely response to our questions. If you have any questions, please contact Oversight Subcommittee staff at (202) 225-5522.

Sincerely,

PETER J. ROSKAM
Chairman
Subcommittee on Oversight
Committee on Ways & Means

KEVIN BRADY
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ADRIAN SMITH
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