

**MAR 29 2016**

The Honorable Kevin Brady  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Brady:

I write in response to the oversight requests you have made regarding cost-sharing reduction payments under the Affordable Care Act (ACA). The Department of Health and Human Services (HHS) is committed to working cooperatively with the Committee, and toward that end, we wanted to provide additional information as requested by the Committee.

The Committee has focused its inquiry on the actions of the Department of Treasury and HHS (the Agencies) in making advanced cost-sharing reduction payments to insurers under the ACA. As you know, the House of Representatives has filed a lawsuit against the Agencies asking a federal court to end those payments and to declare that the Agencies' actions in providing those payments are unconstitutional. Your letters indicate that you seek information about the Administration's decisions in connection with the submission of the President's Budget as well as subsequent decisions about funds available to implement these cost-sharing provisions of the ACA. As you know from our responses to your letters, and from our recent discussions with Committee staff, some of the information you are seeking implicates significant Executive Branch confidentiality interests in internal deliberations. While we continue to believe the appropriate course is to defer at this time to the practices and procedures governing the judicial proceeding brought by the House, we have worked with your staff to address your interests consistent with our confidentiality interests. As a significant accommodation, we made Ellen Murray, the HHS Assistant Secretary for Financial Resources, available for a voluntary transcribed interview conducted by Energy and Commerce Committee staff on March 4, 2016, which was also attended by staff from your Committee.

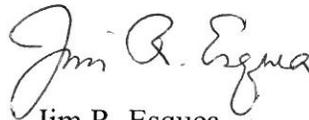
We appreciate the work that House staff has done to identify and communicate to us their priorities regarding information they are seeking. As we have communicated to your staff, we are committed to working to identify ways to provide you with the information you are looking for in a way that does not implicate significant Executive Branch confidentiality interests. Consistent with that commitment, on March 22, 2016, we produced to you two of the documents House staff identified as priorities, a memorandum of understanding between the Internal Revenue Service and the Centers for Medicare & Medicaid Services (CMS) that describes the roles and responsibilities of each party for program operations supporting the payments of and accounting for the cost-sharing reduction portion of advanced payments and a memorandum that was sent to Ms. Murray before her transcribed interview laying out the parameters of what she was authorized to discuss. In addition, we are working to identify documents responsive to the priority request concerning how HHS worked with Treasury to set up the payment process and how the payments were made.

With respect to the other requests made by House staff, we have not identified responsive documents. House staff identified two additional documents as priorities, which staff described as an authorization memorandum and a legal memorandum regarding cost-sharing reduction payments. As to the first of these, we understand Treasury has produced it. As to the second, we have determined that we do not have it in our records. Finally, House staff also asked us to prioritize the production of documents that would confirm the timing of various conversations Ms. Murray described during the course of her interview. To date, we have not identified documents responsive to this request.

In addition, House staff requested we make two additional individuals available for transcribed interviews with Committee staff, William Schultz, the General Counsel of HHS, and Deborah Taylor, the former Chief Financial Officer of CMS. As we noted before, we continue to believe the appropriate course is to defer at this time to the practices and procedures governing the judicial proceeding brought by the House. Nevertheless, as a further significant accommodation, we can confirm we will make both individuals available to the Energy and Commerce Committee for a voluntary transcribed interview. It is our understanding that your staff will be invited to attend as well.

HHS has a long history of cooperating with oversight requests for information regarding its programs and we also work with Committee staff on a daily basis on many shared legislative priorities. We greatly value this constructive process and look forward to continuing our cooperative efforts in the future.

Sincerely,



Jim R. Esquea  
Assistant Secretary for Legislation

cc: The Honorable Sander Levin  
Ranking Member  
Committee on Ways and Means