Hearing on Obamacare Implementation and the Department of Health and Human Services FY16 Budget Request

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HEARING

BEFORE THE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

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C O N T E N T S

WITNESSES

The Honorable Sylvia Burwell

Secretary, United States Department of Health and Human Services
Witness Statement [PDF]

Hearing on Obamacare Implementation and the Department of Health and Human Services FY16 Budget Request

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

The committee met, pursuant to call, at 10:05 a.m., in Room 1100, Longworth House Office Building, Hon. Paul Ryan [chairman of the committee] presiding.

Chairman Ryan. The committee will come to order. We know that the Secretary is on a tight time line today with a hard deadline at noon. That is why the ranking member and I just discussed that we will limit members' questions to 4 minutes so as to accommodate as many members as possible in the questioning. But first let me start off by thanking our witness, Secretary Burwell.

I understand that you have got to get going, so we are going to move this as quickly as we can. We were supposed to have this hearing earlier in the year, but events overtook us. So here we are today. I understand that the majority of your remarks are going to be about the budget. That is all well and good. But it shouldn't surprise you, Secretary Burwell, that we are a little more interested in talking about ObamaCare, especially given the President's remarks this week.

I hope he gives you a medal for this job, because defending this healthcare law is no easy task. I think any objective observer would say that this law is on the fritz, by the law's own standards. The whole point of ObamaCare was to make health care more affordable. But premiums aren't going down, they are going up, way up all over the country. Insurers are proposing double-digit premium increases. In Maryland it is close to 30 percent; Tennessee, 36 percent; South Dakota, 42 percent.

Tax season was like a bad dream before. Now it is a total nightmare. People could never afford these plans on their own, so the law gave them subsidies, to some people. Well, now two-thirds of the people who got them had to pay the IRS back, on average over $700. That is not the kind of money that people just have laying around.

And for all of this hassle, for all of this, what are we getting for it? The argument was that if people had insurance they would go to the doctor instead of the emergency room. But now even more people are going to the emergency room.

So whatever the Supreme Court decides later this month, I think the lesson is absolutely clear: ObamaCare is just flat busted. It just doesn't work. And no fix can change that fact. We are not talking about a ding or a dent or a fender bender or a flat tire. The whole law is a lemon. Its very linchpin, its central principle, is government control. That means higher prices, fewer choices, and lower quality.

So the answer isn't just to tighten a few screws and everything will be fine. The answer isn't just to tweak it here and tweak it there and we will all be okay. The answer is to repeal and replace this law with patient-centered reforms.

And the truth is, I don't have to convince this administration that the law is broken. I know that you know that it is broken, because you keep trying to fix it. For several years now, HHS has delayed parts of the law, and sometimes, in some cases, they have rewritten it on the fly.

We know the most egregious example, the subsidies. The law says that people who buy plans on State exchanges can get subsidies. It doesn't say anything about Federal exchanges. And yet, HHS has sent millions of subsidies out the door, putting millions of people at risk.

More and more it seems the administration isn't so much implementing the law as they are improvising it. We have already seen the evidence of the administration using one account to pay for multiple programs -- programs that Congress never funded. That is one of the main reasons that we are holding this hearing today. It is Congress that wields the power of the purse. And more and more the administration is acting like a purse snatcher.

So again, my kudos to you, Secretary Burwell, on a very difficult assignment. But the American people, they deserve better. They deserve a healthcare system that puts the patient first. They deserve lower prices. They deserve more choices. They deserve higher quality. And the committee is going to do all it can to make those things happen.

And with that, I would like to yield to the ranking member.

Mr. Levin. Welcome.

You know, I am glad we are having this hearing. And obviously the Republicans want to focus on ACA, and I think that is a good idea, because what is busted is not ACA, but your attacks on it, endless attacks, never coming up with a single comprehensive alternative all these years.

So you sit as armchair critics while millions of people have insurance who never had it before. Millions of kids have insurance who would not otherwise have had it. People who have preexisting conditions no longer are canceled or can't even get insurance. The doughnut hole is gone. Millions of people in lower income categories are now insured through Medicare, millions and millions and millions. Cost containment is beginning to work. It is beginning to work. The increase in costs, that rate is going down.

And so you are livid because it is getting better. That is why you are livid. And I am not surprised at your fervor. We will be glad to take it on. We will be glad to take it on.

And I think you just need to understand what this experiment is all about. It was combining increased access to Medicare, to Medicaid, with an increased reliance on the private insurance sector. That is really what this is all about, an experiment.

And you talk about government control? More and more people are getting insurance through the private sector. And the States that are denying their citizens further coverage under Medicaid are essentially telling people: Well, get lost when it comes to health coverage. Get lost.

And you have a governor, Mr. Chairman, who is running around this country talking about the evils of health care, when millions of people are benefiting from what happened.

So you decided to turn this from budget to ACA. Welcome. Welcome. Your frustration is millions and millions and millions of people are benefiting, have health care when they did not before.

So, Madam Secretary, I think they have thrown down the gauntlet. I don't feel sorry for you. I think you love this job and you like being the person who is administering this experiment in greater health coverage after 70, 80 years of nothing being done in this town or throughout this country. So I happily welcome you because I think you are a very happy warrior.

I yield back.

Chairman Ryan. I would like to recognize the happy warrior now for your opening statement. The floor is yours, Secretary Burwell.

STATEMENT OF THE HONORABLE SYLVIA BURWELL, SECRETARY, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary Burwell. Thank you. Chairman Ryan, Ranking Member Levin, and members of the committee, thank you for the opportunity to discuss the President's budget for the Department of Health and Human Services.

I believe firmly that we all share common interests and therefore we have a number of opportunities to find common ground. And we saw the power of common ground in the recent bipartisan SGR fix, and I appreciate all of your all's efforts to get that work done.

The President's budget proposes to end sequestration, fully reversing it for domestic priorities in 2016, matched by equal-dollar increases for defense funding. Without further congressional action the sequestration will return in full in 2016, bringing discretionary funding to its lowest level in a decade, adjusted for inflation. We need a whole-of-government solution, and I hope both parties can work together to achieve a balanced and commonsense agreement.

The budget before you makes critical investments in health care, science, innovation, and human services. It maintains our responsible stewardship of the taxpayer's dollar. It strengthens our work, together with Congress, to prepare our Nation for key challenges both at home and abroad.

For HHS, the budget proposes $83.8 billion in discretionary budget authority. This is a $4.8 billion increase, which will allow our Department to deliver impact today and lay a strong foundation for tomorrow. It is fiscally responsible, which in tandem with accompanying legislative proposals would save taxpayers a net $250 billion over 10 years. In addition, it is projected to continue slowing the growth of Medicare by securing $423 billion in savings as we build a better, smarter, healthier delivery system.

In terms of providing all Americans with access to quality, affordable health care, it builds upon our historic progress in reducing number of uninsured and improving coverage for families who already had insurance. A recent example of this progress is the 10.2 million Americans who are currently enrolled in health insurance through the marketplaces in 2015.

The budget covers newly eligible adults in 28 States, plus D.C., where expanded Medicaid, and an improved access to health care for Native Americans. To support communities throughout the country, the budget makes critical investments in health centers and our Nation's health workforce, particularly in high-need areas. To advance our common interests in building a smarter, better, healthier delivery system, it supports improvements to the way care is delivered, providers are paid, and information is used.

To advance our shared vision for leading the world in science and innovation, the budget increases funding for NIH by $1 billion to advance biomedical and behavioral research, among other priorities. It invests $215 million for the Precision Medicine Initiative, which will focus on developing treatments, diagnostics, and prevention strategies tailored to the individual genetic characteristics of individual patients.

To further our common interests in providing Americans with the building blocks of healthy and productive lives, this budget outlines an ambitious plan to make affordable, quality child care available for working families. To keep Americans healthy, the budget strengthens our public health infrastructure with $975 million for domestic and

international preparedness, including critical funds to implement the Global Health Security Agenda. It also invests in behavioral health services, including more than $99 million in new funding to combat prescription opioid and heroin abuse, dependence, and overdose.

Finally, as we look to leave our Department stronger, the budget invests in our shared priorities of addressing waste, fraud, and abuse, initiatives that are projected to yield $22 billion in gross savings for Medicare over the next decade.

We are also addressing our Medicare appeals backlog with a coordinated approach. We are pleased that the Senate Finance Committee last week passed bipartisan legislation, and we look forward to working with this committee on it. I also want to assure you I am personally committed to responding promptly and thoroughly to the concerns of members of the committee.

I want to close by taking a moment to say how proud I am of the HHS employees, from their work combating Ebola, to assisting unaccompanied children at the border, the commitment that they show day to day, day in and day out, as they work to help their fellow Americans have those building blocks of healthy and productive lives.

I look forward to working closely with you to advance our common interests on behalf of the American people. Thank you.

Chairman Ryan. Thank you.

Let me first start off by saying where we agree with the administration we work with the administration. This week's action on trade is a perfect example. But on this healthcare law we could not be more opposed to what the administration is doing. We really think this is doing a great harm to the healthcare system and to the people we all represent.

So let me start by just addressing the big elephant in the room. Any day now the Supreme Court, as you well know, because your name is Burwell in King v. Burwell, is about to rule, and if the court rules against the administration then millions of people will be stuck with a government-designed health insurance that they cannot afford.

So, I mean, the big question is, then what? What about the people who are going to lose their subsidies and possibly their coverage? Is the President going to dictate to us how to fix this flawed law or is the President, is the administration going to be willing to work with us to give families greater freedom in choosing the health care that works best for them?

Secretary Burwell. With regard to the question of the courts, I think you know we believe that we are implementing the law as it was written, as the statute is written, as it was intended, as CBO has scored it for all these years, as recent articles have reflected, that those who were part of writing the law indicate that it should be. The idea that citizens in the State of New York should receive Federal subsidies that taxpayers

contribute to and citizens in the State of Texas should not is not what we think the law intended --

Chairman Ryan. I understand your opinion on what the Court ought to do, but it stands to reason that there is a pretty decent chance that they may not go your way. So the question then is, then what?

Secretary Burwell. So if the Court does decide and if the Court would decide for the plaintiffs, and the idea that the Court would say that subsidies in the Federal marketplace are not eligible, those States that are part of the Federal marketplace, that those citizens can't have those subsidies, if the Court makes that decision we are going to do everything we can, and we are working to make sure we are ready to communicate, to work with States, and do everything we can. But the critical decisions, if the Court says that we do not have the authority to give subsidies, the critical decisions will sit with the Congress and States and governors to determine if those subsidies are available.

Chairman Ryan. So here is the question I am trying to get at. Is the President going to stand up and wave, I have a one-page bill, I have a one-sentence fix, take it my way or the highway, is that going to be the administration's position? Or is the administration going to be willing to work with Congress to find a way to give people more healthcare freedom? That is the question I am trying to get at.

Secretary Burwell. With regard to the question of healthcare freedom, I think it is important to reflect, the marketplace is a market. It uses private insurers. People that sign up in the marketplace are not on, so they have many choices. As a matter of fact, in the marketplace this year there were 25 percent more plans. That is more choice. That is more competition. That is why 8 in 10 --

Chairman Ryan. Let me ask it this way, because I want to be kind to everybody's time. Let me ask it this way. If the plaintiffs prevail, if the King side wins, and then the exchanges are deemed unconstitutional, not legal in the Federal-exchange States, then the individual mandate is effectively struck down for those taxpayers in those States, is the President going to say reinstate the individual mandate? I have got to tell you; it is not real popular. And we here, at least on this side of the aisle, aren't eager to reinstate the individual mandate. We would like to free people from some of these mandates.

I would say that the administration has kind of been a little two-sided on this particular issue, mandates, where you have delayed the employer mandate twice. That goes away as well.

So is the administration going to take the position Congress must just reinstate this thing in all these 37 States, reinstate the individual mandate, reinstate the employer mandate, my way or the highway, or is the President going to be willing and flexible to work with Congress to fix this mess and negotiate with Congress? That is what I am trying to get at.

Secretary Burwell. So I think it is actually very important, though, with regard to the decision before the Court, the decision before the Court is who receives subsidies and whether or not those subsidies can be given in States that have a Federal marketplace versus a State marketplace.

Chairman Ryan. Yes, we understand that.

Secretary Burwell. That is the decision, and that is the only decision before the Court right now.

Chairman Ryan. Okay, so should --

Secretary Burwell. And with regard to what happens if that decision occurs --

Chairman Ryan. Yes.

Secretary Burwell. -- three things occur. The first thing that occurs is, for the people --

Chairman Ryan. Secretary Burwell, we know what will occur. We all know this. The question is, what will the administration do? Will they stand up with one piece of paper and say, "My way or the highway," or will they work with Congress to address the situation?

Secretary Burwell. The problem that occurs if the Court decides against us is that they have made a decision that the subsidy isn't available.

Chairman Ryan. You are not going to answer the question, are you?

Secretary Burwell. No, the answer is, the problem that gets created is subsidies aren't available. They aren't available for millions of Americans. They lose their insurance. It drives up costs in the individual market. To solve that problem the critical decisions are going to sit with the Congress or States.

Chairman Ryan. Okay. Right. So for a bill to become a law, House, Senate, then the person at the other end of Pennsylvania Avenue, the President signs that law. Is the President going to come out and say, "Only my way or the highway," one-sentence, one-page fix, or is that President of the United States going to be thinking less about digging in and defending his law as exactly written, or is he going to be willing to actually deal with the issue, which is affordable health care for millions of people who are losing their health insurance? Is he going to work with Congress to address this situation or is he going to put concrete around his ankles and say, "It is my law or nothing"? That is the question I am trying to get at.

Secretary Burwell. So the President and we have said, the administration has said all along, with regard to improvements, and we believe that there are improvements that can be made, we look at three things and a fourth underlying: Affordability, access, quality,

and the issue of how it affects the deficit and our economy. We will look at anything and have that conversation.

Chairman Ryan. Okay.

Secretary Burwell. With regard to the specifics that you raised, I do think it is important, the issue of the individual mandate. That is related to a very fundamental part of the system, which is preexisting conditions. And it is our experience, at least in my conversations across the country, that most Americans believe that you shouldn't be kept out of insurance or banned. If I have a child that has a condition, that is born with a particular condition, that I shouldn't spend my time worrying that that child will never get insurance once they go off mine.

Chairman Ryan. You are kind of going off topic. I am going to cut you off there. We both know that there are ways of dealing with those problems without having to impose an individual mandate.

Let me leave it there, in the interest of everybody's time.

Mr. Levin.

Mr. Levin. Well, I am not surprised at the tone, but I really think it is so counterproductive. Chairman, you talk about two-sidedness. The two sides, when you say you worry about the millions who will lose their insurance, when it is your allies who brought the suit that would deprive them of insurance. You talk about concrete, having feet in concrete? That is exactly where you have been in terms of ACA. Your feet have been in concrete while you have brought up bill after bill to try to destroy ACA. And when you say will the President be my way or the highway, that is precisely what has been your approach to ACA. Precisely. You have never sat down with us to say, how could we make some changes? Instead, you have been out to destroy ACA. And you say, where is the President's plan, when the President believes the Court will and should uphold the law. All you have done is issue op-eds.

Chairman Ryan. And bills.

Mr. Levin. And bills, contrary, contradictory bills. So you don't have any plan. Like you haven't had a plan for 60 years. So you can keep going after the Secretary and she will keep trying to spell out.

I will ask you, and I finish, how many people have been receiving subsidies, Madam Secretary?

Secretary Burwell. Some 7.3 million people have received subsidies that are in the marketplace right now.

Mr. Levin. So when you shed tears about 7.3 million, remember -- or about the law -- it is 7.3 million.

What has been the average subsidy?

Secretary Burwell. Two hundred and seventy-two dollars per month is the average subsidy in terms of those that are in the marketplace that are subsidized. That is the 7.3 million. So 10.2 million people are currently in the marketplace overall. About 85 percent of those receive subsidies. The average subsidy is $272 per month, which is what results in the affordability.

Mr. Levin. And just quickly tell us, how many people have received additional care through expansion of Medicaid?

Secretary Burwell. The question of the total number, because there are people in terms of the expansion itself, about 10 million people are the estimates in terms of those States that have expanded.

Mr. Levin. So add those two together and we are talking about individuals with families, and the Republicans come here and castigate you and this President. The shoe should really be on the other foot.

I yield back.

Chairman Ryan. Mr. Johnson.

Mr. Johnson. Thank you, Mr. Chairman. I hardly know how to follow that.

I guess I am supposed to thank you for being here. But I have to tell you, I am not in agreement with much of what you are saying. And let me just ask you, we are trying to get the health care back in shape, and it sounds like to me that you want to go your way and not try to work with us. And let me just ask you if there are any proposals that HHS supports that will reduce costs for consumers without setting price controls or imposing other restrictions that will reduce access to care.

Secretary Burwell. Yes, there are a number of things that are part of our budget and that we are currently implementing that are reducing costs. We know that since the passage of the act, the trajectory of Medicare --

Mr. Johnson. But it looks like to me everything is going up.

Secretary Burwell. Well, Medicare spending, if we look at what it was projected to be in terms of the previous 10 years up to 2008 to where it has been since 2009 through 2014, we saved $300 billion. With regard to per capita healthcare costs in the country, in 2011, 2012, and 2013 the cost growth is the lowest that it has been in 40 years. So that is taxpayer savings. That is also savings for providers.

Mr. Johnson. Well, the insurance rates are going up, not down, and everybody is paying more for it.

Secretary Burwell. So insurance rates before the Affordable Care Act were going up often in the individual market well above double-digit numbers. And so what we have seen since the implementation is, while those rates are still continuing to go up, they are going up at a much lower rate.

Mr. Johnson. Okay. Let me just change subjects for a second and ask you about an effort that my colleague, Lloyd Doggett, and I have been after for a number of years, and that is ending the use of Social Security numbers on Medicare cards. As you know, that finally became law earlier this year as part of the Medicare Access and CHIP Reauthorization Act. So let me ask you, is HHS already implementing that, and how fast do you think you will be able to issue cards without Social Security numbers on them?

Secretary Burwell. First, let me say thank you. Having put this in the budget when I first arrived at OMB, I thought, as I told you in our call, it would take years. So thank you for your leadership and effort on this. We were pleased and I personally was very excited.

So right now we are putting together the work plan to do that. We haven't established the exact timetable, but as soon as it was passed, the next day, have asked the team for the work plans. We want to do it as quickly as possible in ways that will serve the consumer. As you know, there are a lot of Medicare consumers. We want to make sure that we are not disrupting them or their services, but we very quickly want to do it because, like you, we believe this is an important part of privacy and security.

Mr. Johnson. Well, I thank Lloyd Doggett for helping me with that. But how easy do you think you can make it for seniors to get a new card?

Secretary Burwell. I think that is the part in terms of understanding the timing, because we want it to be easy for seniors and we want to make sure they understand. One of the things we don't want to do by making this improvement is create confusion. So figuring out the way that we can enter in the new people coming in very quickly with their cards, but those with the existing cards, because we don't want to have a confusing situation. So that is what we are working to do, and look forward to staying in touch with you and your office about how we do that.

Mr. Johnson. Thank you, ma'am.

Thank you Mr. Chairman.

Chairman Ryan. Thank you.

Mr. Rangel.

Mr. Rangel. Thank you, Mr. Chairman. And I want to thank my colleague, Mr. Johnson, for not drinking all of that Kool-Aid that you had in the back against ObamaCare, and bringing forward something constructive that the people outside would know that we are trying to provide health care is very healthy.

Chairman Ryan. Try the Kool-Aid.

Mr. Rangel. I can't try that Kool-Aid, because I was a former altar boy, and I went to school and learned all the religions. And I just thought that the right thing for Americans to do was to believe that health care was a part of pursuit of happiness. It doesn't even seem like a political thing if a kid is sick and someone says that you can't have health care. It should pain us as human beings if a person goes to a doctor and finds out that the child has an illness but he can't get insurance, if we find the Good Samaritan on the side of the road. And we know that most people, middle class people have insurance, but that poverty sometimes restricts people from getting this.

It just seems to me that instead of tearing down a system where you know in your hearts people are getting health care, that you would say, "I don't like the way you have done it, Mr. President. I don't like the way you Democrats have done it. Let us help you to do it better." But to take some sense of pride that the Supreme Court will just strike down the opportunity for people to get just basic health care to me is not just meanspirited --

Chairman Ryan. Will the gentleman yield?

Mr. Rangel. I don't think so, Mr. Chairman, because you are on a roll now, and I don't want to have you to become a nice guy at this point in time, because I am glad that you have rehearsed the attack that you intend to do. And I don't care who the Secretary is, if you are on the side of giving assistance to people that can now go see a doctor, that can now prevent going into intensive care because they have had preventive care, that can now get insurance, that they couldn't have insurance, from a political point of view, I wouldn't want to be in your shoes explaining it.

Of course, those that are already covered, it is no problem there. I have got mine, Jack. You get the best that you can. But I don't care what religion you believe in and even if you don't believe in any, it seems like compassion should override partisanship. And if we don't like what is before us, we should work hard to repair and to fix it and to improve it.

And so, you know, I am 85 years old. If I have to decide what moral side I am going to be raising issues on, I can't find a better one than this. And it goes without saying, if you are crippled, if you are blind, if you are disabled, if you want help, and if money and insurance is what is keeping you from getting it, you cannot give a better political home run ball to the American people to decide a basic question, which side are you on?

And so I am glad that politically my party would never put me in this position. The only position I would rather be in is where you are sitting, Madam Secretary, to be able to see

that you are on the right side of the issue. You can see that people don't really want to discuss the millions of people that are being helped and we are not talking about. We are talking about life and death in the true sense of the word. And if someone had a conscience that when a doctor said, "I wish you had seen me earlier," and they said, "I wish I could, but I didn't have insurance to do it, Doctor," or how many cases we have in intensive care saying, this woman, this man should never had to have been here if it was detected earlier and we have a mechanism for all of this.

Chairman Ryan. The time of the gentleman has expired.

Mr. Rangel. Well, thank you, Mr. Chairman. I will turn back the balance of my time.

Chairman Ryan. Okay, that is good.

Mr. Rangel. There was another minute there, but you cut that off.

Chairman Ryan. We are doing 4 minutes so that we can get to members of the other dais here. I would just ask members, if you have a question, ask it earlier on so that the Secretary has a chance to respond.

The gentleman from Texas is recognized.

Mr. Brady. Thank you, Mr. Chairman.

And, Madam Secretary, health care is about patients, not politics. So I was really pleased to hear you answer Mr. Ryan that if the Court rules against the IRS in this case the administration will do everything we can. Can you give us some guidance here? Will the President sign legislation other than merely extending the subsidies to Federal exchanges?

Secretary Burwell. With regard to the question of legislation and the Affordable Care Act, that has been a question and a comment. And where we have been is when there is repeal of fundamental elements --

Mr. Brady. But on going forward, I appreciate looking backwards, but going forward, if the Court rules for the plaintiffs, will the President sign legislation other than extending subsidies to the Federal exchange?

Secretary Burwell. So the President has and I think will continue to sign legislation that we believe improves affordability, quality, access, and takes care of the deficit issues of the country.

Mr. Brady. So the answer is, and thank you for saying, what I hear you say, the President will sign legislation other than simply extending the subsidies to the Federal exchange. Are you saying that is correct?

Secretary Burwell. The SGR bill that we just recently signed includes very important provisions that actually extend the Affordable Care Act's effort to do delivery system reforms.

Mr. Brady. But as you know, that is not on the Supreme Court case. Specific to that, asking your guidance, the President will sign legislation --

Secretary Burwell. Specific to the Supreme Court case --

Mr. Brady. -- other than merely extending subsidies?

Secretary Burwell. Specific to the Supreme Court case, if the question is the Supreme Court case, I want to return to what the Supreme Court case is saying.

Mr. Brady. No, we are looking for your guidance in a bipartisan way. So your answer is, yes, the President will sign legislation other than extending the subsidies to the Federal exchanges.

Secretary Burwell. With regard to the question of the Supreme Court case, that is an issue about subsidy. That is all that is about.

Mr. Brady. And your guidance to us would be --

Secretary Burwell. If your question is, are we willing to consider things that would improve or enhance affordability, quality, and access, we are open to those things.

Mr. Brady. So yes.

Secretary Burwell. With regard to the Supreme Court case, though, I think it is very important for me to be clear. That is about one item. That is about one item.

Mr. Brady. The subsidy. I am very well aware.

Secretary Burwell. And that is the subsidy.

Mr. Brady. I just want to make sure, again, as we look to work together to put patients ahead of politics, you are saying, yes, the President would definitely sign legislation other than extending the subsidy to the Federal exchanges. The answer is clearly yes.

Secretary Burwell. I want to distinguish between the question of how one resolves the problem that gets created. That doesn't have anything to do with any other parts of the Affordable Care Act.

Mr. Brady. But no, no, no. This is such an easy question. It can be, yes, the President will sign other legislation, or, no, he will sign only that legislation.

Secretary Burwell. Congressman, I think it is very hard for me to answer a question about hypothetical legislation.

Mr. Brady. No, it is actually not hypothetical. As we know, the Court is going to be ruling. Not hypothetical. If they rule for the plaintiffs, guiding us, you are saying the President would sign other legislation, he will not, as Mr. Ryan said, he will not say, "My way or the highway."

Secretary Burwell. With regard to fixing, improving the Affordable Care Act, these are two different issues. The subsidy issue --

Mr. Brady. No, no, Madam Secretary, I don't mean to interrupt. I am really seeking your guidance. So the answer, though, to finalize it, is yes.

Secretary Burwell. My answer, Congressman, is we will review any legislation we get that has to do with the Affordable Care Act based on four things.

Mr. Brady. But I am asking about signing. So the answer is no?

Secretary Burwell. With regard to legislation that we sign, we will look at any piece of legislation and we will judge it by four things: Access --

Mr. Brady. So would the President sign legislation to extend those subsidies temporarily while Republicans and Democrats and the President work toward a long-term solution?

Secretary Burwell. With regard to the subsidies, as I have said, the critical decision is with Congress. If the Congress writes legislation that makes sure that those subsidies are available, that is something that would fix the issue.

Mr. Brady. The answer is yes. Yes, he would sign legislation other than extending it, correct?

Chairman Ryan. Time.

Secretary Burwell. Congressman, I apologize, but when you say "other," I want to make sure --

Chairman Ryan. The time of the gentleman has expired.

Mr. McDermott.

Mr. McDermott. Mr. Chairman, thank you.

Ms. Burwell, it is really nice out in Seattle. I am not sure you made the right choice coming back here to work.

Secretary Burwell. I am in the wrong Washington, is that what you are telling me?

Mr. McDermott. I listen to this, and we are all talking about if the President does this and whatever. But let's talk a specific, because I think that we haven't heard a specific come out of the Republicans since the bill was passed. They have never put anything on the table.

Now we have a bill, 1016, put in by Senator Johnson from Wisconsin, and it is his solution if the bill fails. And as I read it quickly, it repeals the individual mandate, it repeals the employer mandate, and it says that the States can continue the funding down, and the standard of benefits that people get are not the national standards, but whatever the State of Mississippi or Alabama or Georgia or Texas or one of these States that has not had an exchange, whatever they set as a benefit.

We know it will be lower, because it already is. They won't cover people in Medicaid. So they clearly don't care about the level of health care.

But explain to me how you would respond to 1016.

Mr. Price. Will the gentleman yield? Will the gentleman yield?

Mr. McDermott. No, I am not going to yield. I am going to let her explain.

Mr. Price. Will you take back the disparagement of the citizens of the State of Georgia?

Mr. McDermott. She has the right to explain what the President would think of a particular piece of legislation that has been put forward as a serious thing by a Senator in the United States Senate.

Secretary Burwell. So with regard to the Johnson piece of legislation, that piece of legislation is, from our perspective, is repeal, because it gets rid of preexisting conditions, it stops the funding for preventative services, it undoes that people up to 26 would be covered, and it actually takes away subsidies from all over time.

And so with regard to that particular piece of legislation, that is a bill that, from our perspective, is repealing. And we have spoken to the issue of something that repeals the Affordable Care Act is something that the President will not sign.

Mr. McDermott. So in answer to Mr. Brady's question, will the President sign a bill that we pass, if we pass this bill, will the President sign that?

Secretary Burwell. As I have said, this bill is, in its current form, is repeal, and the President has said that he will not sign something that repeals the act.

Mr. McDermott. Is there any place that you see that there is a proposal on the table by any Member of the House or Senate that looks at this point as though it deals with protecting the ACA in general and fix the one specific problem?

Secretary Burwell. We have not seen anything.

Mr. McDermott. And you have looked at all the legislation and read all of the press releases and everything else?

Secretary Burwell. At this point we have not seen something that addresses the specific issue of the question. Although I think there is also the issue, I think we are all very focused on the loss scenario. At some point I think it actually is important to focus on the win as well in terms of how we all go forward if there is a win.

Mr. McDermott. Tell us about the costs of health care. We hear the chairman says the President promised that there would be a reduction in premiums. Now, would you explain why that is a little bit misleading in that certainly everything is going up in the society, but they are not going as much as was predicted. I would like you to talk about that.

Secretary Burwell. That is correct. And as we have seen, the premium increases that occurred in the individual market and even in the employer-based market, we are seeing smaller increases in those premiums than we saw before. And so while there are increases, the increases that we were historically seeing that were driving costs for individuals, for employers, and in terms of Medicare and the costs to the government, that is what we have seen shrink and slow.

Chairman Ryan. Thank you.

Mr. Tiberi.

Mr. Tiberi. Thank you, Mr. Chairman.

Thank you, Secretary Burwell.

The recent SGR repeal and Medicare reform bill that passed a couple months ago included a bipartisan bill that I sponsored to require binding bids from suppliers participating in the durable medical equipment and supplies competitive bidding program. The provision, supported by my Democrat colleagues, removes bad actors from the program, something I don't have to, I know, go over with you, and ensures that seniors get quality medical equipment.

In a compromise with the administration, the law requires that CMS implement the provision not earlier than January 1 of 2017, but not later than January 1 of 2019. I think that the 2019 is a very generous time line to implement the bill and would hope, with your leadership, that we could move it closer to the January 1, 2017 time line.

Because at the end of the day, as you know, again, there is bipartisan support for this concept. My good friend Bill Pascrell is all over this issue as well. We think that this will ultimately help separate the good from the bad and ultimately help our seniors. So your leadership would be critically important to moving that closer to the beginning than the end.

Secretary Burwell. So it is related to Mr. Johnson's question too. As soon as the bill passed, which was such a very important bill -- I don't think I need to articulate to this committee all the important things we have worked to put together so that we are specific and we do try to meet and beat deadlines. We have been able to do that on some bipartisan legislation in behavioral health that was supported both in the House and the Senate in terms of beating deadlines we were given, and where we can, we are going to try to. Thank you for your support in helping doing that. If we need further support and help I will come and ask.

Mr. Tiberi. Thank you.

Secretary Burwell. But it is something that is a priority.

Mr. Tiberi. Thank you.

The other issue, Madam Secretary, is intellectual property rights, incentivize the creation of innovative new medicines that improve people's lives and supporting good U.S. jobs. We are talking about trade this week.

I want to ask you specifically about India. Over the past couple of years, India's intellectual property climate has unfortunately deteriorated pretty significantly and the U.S. IP-intensive industries have suffered, including pharmaceuticals, and they have expressed significant issues with respect to the Indian market.

Most notably, courts in India have issued compulsory license, as well as denied or revoked several patents for popular medicines held by U.S. companies, citing an Indian law that many believe diverges from India's international legal and international trade commitments.

Have the compulsory license and denial, revocation of patents on medicines been part of any of HHS discussions with its Indian counterparts? And I know this is kind of a question that might have come out of left field based upon what you prepared today, but would you agree it would be ill-advised for any U.S. Government employee to undermine the policy of the U.S. to promote strong international property rights in foreign markets? And if you aren't prepared to answer that, would you mind looking into it and getting back to us as we have this trade debate this week?

Secretary Burwell. Yes, I am happy to get back. USTR would probably lead in any of those conversations that were in that space. So I think what I will do is coordinate with USTR so that we get back to you together.

Mr. Tiberi. That would be great.

Secretary Burwell. Because I think you probably know those conversations --

Mr. Tiberi. Yep.

Secretary Burwell. -- with the governments are being led by USTR. We give our policy and programmatic input to them and they lead.

Mr. Tiberi. Great.

Secretary Burwell. So we will make sure that one of the two, either HHS or USTR, get back.

Mr. Tiberi. Thanks so much. I appreciate your leadership.

I yield back.

Secretary Burwell. Thank you.

Chairman Ryan. Thank you.

Mr. Neal.

Mr. Neal. Thank you, Mr. Chairman.

Madam Secretary, the opioid addiction issue is pronounced now across my congressional district, and there are all sorts of stories now that indicate a nationwide trend. And I am curious about the response of your Department, the agencies that you oversee, and also to ask specifically about prescription drug misuse.

Secretary Burwell. Yes.

Mr. Neal. And the evidence that you are coming across on that basis.

Secretary Burwell. So with regard to the issue that you have raised, thank you for raising. In our budget there is 99 million additional dollars to implement an evidence-based strategy on the problem.

Let's just quickly touch on the problem. When we think about the problem, as you articulated, in your district, across the country, opioid and overdose deaths have exceeded the number of deaths from car accidents or any other accidental death. In the year 2012, there were 259 million prescriptions for opioids. That is more than one for every adult in the country.

Mr. Neal. Would you say that again? How many prescriptions?

Secretary Burwell. Over 250 million prescriptions in 2012 for opioids. So that is how many prescriptions there were. So that is more than the number of adults in our country. So that was one prescription for every adult in the country in terms of where we are in the magnitude of the problem.

Let's go to the solution space. We have worked and worked with States and worked with the Congress. There are a number of bills here up on the Hill right now. Three basic areas we need to focus.

One is prescribing. A big part of the problem, as you can see from that number, is prescribing. What we need to do there is we need to provide new prescribing guidelines for pain and pain medication that will help the problem. But also, in the prescribing States, States need to do what are called prescription drug monitoring plans. They are almost in all 50 States and they are the means by which a physician has the opportunity to look up and see that a controlled substance was already given to you, and control it that way. Same thing with pharmacists. So prescribing is number one.

Number two is the use of naloxone, which is a very important drug that actually stops death when there is overdose, and making sure that first responders have access. That is a very important part of that picture. Nick Kristof even had a piece about it this week.

Number three is the issue of medicated assisted treatment combined with behavioral issues and making sure that we do treatment for those who are addicted.

So those are the three things. The $99 million additional funding in our budget cuts across CDC and SAMHSA as we do this. We are doing this in conjunction with States. I have been in Massachusetts with your governor and done a joint event with your governor. This is a bipartisan, bicameral, and statewide issue. And whether it is governors or both sides of the legislative body and both sides of the aisle. And certain your all's colleague from Kentucky is leading in this effort on the House.

So that is our plan. That is what we are trying to do.

Mr. Neal. And it is noted that in some places in New England heroin is selling for $3.50 a bag on the streets of some of our old industrial cities. And I have House bill 1821 that I would invite Members to take a hard look at. Senator Markey has a companion bill in the Senate.

And what specific actions should Congress be taking along these lines to assist you in noting, as you have, that there are now more deaths from overdose than from automobiles?

Secretary Burwell. So on the heroin point, we know that the second two elements, the non prescribing elements of the strategy, we will work on it.

With regard to the places where we believe we need help from Congress to implement that strategy, one is in the area of buprenorphine, which is another drug that helps in this, and the question of prescribing. So we believe that that is an important place. The second place is in making sure people are trained with the guidelines.

Chairman Ryan. Thank you.

Dr. Boustany.

Mr. Boustany. Thank you, Mr. Chairman.

Welcome, Secretary Burwell.

Last fall the administration proposed a child support enforcement rule, and former Chairman Dave Camp, along with Senator Hatch, sent a letter expressing concern about this. And the issues that were raised were that the administration in this area was usurping the authority of Congress to write law and was, in effect, writing law.

And this has been a repetitive theme. I think Chairman Ryan raised this issue with regard to certain issues relating to ObamaCare. But we have seen this with immigration, with ObamaCare, other areas of the law, TANF waivers. So why, especially in this area where this committee in a bipartisan way has been willing to work with the administration on these child support policies, why does the administration choose to trample on the Constitution and Article I powers in an area where we want to work together? I just don't get it.

I mean, I understand there is always tension where we disagree. I get it. And that is a fight that we are seeing playing out in the courts. But why in an instance where we do have willingness to work and cooperate on this important issue area?

Secretary Burwell. We would look forward to the opportunity to work in this space. In terms of that particular rule, there were some very important things that I know you are familiar with, the fact that some of these things were done in the 1990s. So people have to do paper applications with regard to child support. And so a lot of the rule was about things like improving ability to use technology and other things, and improvements and simplifications to the rule.

If there are specific policy areas that are of concern, we are listening to those comments that have come in. I think you know we have not finalized the rule. And we would welcome the opportunity to work on the issues and the substantive areas.

Some of the things that have been mentioned in the release that happened yesterday are in areas where the States have advised us -- in the State of Texas -- in terms of we are following what the States have asked us to do in terms of things like using money for people to do job training, which is an issue that is important in a number of the States.

Mr. Boustany. Well, Chairman Ryan and I introduced legislation yesterday dealing with this in order to protect our constitutional right to write law. I know there is companion legislation in the Senate by Senator Hatch and Senator Cornyn. But we want to put the administration on notice that this body, the legislative branch, writes law and that the executive branch executes. And we are getting tired of it, especially in an area where we have some agreement. Just be put on notice that we are going to continue to assert our constitutional prerogative.

On a different issue, the employer mandate has not been implemented, a lot of complications with it. We know how complicated it is. We have heard testimony in the past on this. And I know it does not apply to small businesses, 50 or fewer full-time equivalents. But those individuals would still be subject to the individual mandate.

Why has the administration been reluctant to assist these kinds of small businesses? I questioned Secretary Lew when he was before this committee earlier this year with regard to health reimbursement accounts, and there was a move, I think, for a 6-month reprieve on really onerous penalties for small businesses, but 6 months. I just don't get it.

I have legislation that would actually make it more effective for small businesses to use these health reimbursement accounts, which are completely legal under ACA, but yet for some reason your agency and the administration has decided to close the door on these. I don't get it. Shouldn't we be helping small businesses and their employees at a troubled time?

Secretary Burwell. So we agree with you and want to try and do more. In the budget right now, the budget proposal that is before the Congress right now for fiscal year 2016, we actually have proposed expanding the tax credit. It is available for those up to 25 employees. We want to move it up to 50, to expand the access to tax credits that they can get. It sounds like similar kinds of ideas in terms of getting folks the access they need to the help they need --

Mr. Boustany. Well, health reimbursement accounts are very effective, and it is a simple solution.

Chairman Ryan. The time of the gentleman has expired.

Mr. Boustany. Thank you, Mr. Chairman.

Chairman Ryan. Mr. Doggett, are you ready?

Mr. Doggett. Thank you, Mr. Chairman.

Thank you, Secretary Burwell, for being here.

It seems to me that the focus of this hearing and the focus of all of our work should be on how we can make this healthcare system work better and deliver services and insure more families instead of speculating about some Court decision.

As you know, Madam Secretary, I have a number of concerns about the way this law has been implemented, particularly in Texas, the fact that two out of three of our Texans who are market eligible for these marketplaces are not yet enrolled.

And I think there are things that your office can do for more effective implementation. I would encourage you strongly to do the same kind of cost-benefit analysis that you did at OMB, and that is look at these contractors and see if they are delivering on their services. As you know, I have a number of queries to you about those. I would hope to focus on how we can make it better and how we can make the implementation better.

But when I hear you accused of being a purse snatcher, it does get my attention. You know, the easiest thing for this Court to do, and I think the right thing, is to not ignore the other 900 pages of the law and focus solely on four words. And if it is necessary to have a legislative fix, deleting four words solves the entire problem and allows this law to work the way the Congress intended for it to work.

There are many other ways to address this problem, and in fact, apparently, some States are beginning to look at the possibility that the best way to fix the law, should the Court render the wrong decision, is to simply create their own exchange.

It is also extremely impressive to me that of all the proposals that have come in here at the last minute of Republicans to deal with the possibility of an adverse Court decision, how many of those proposals attempt to include as much of the hated ObamaCare as possible -- preserving the right of young people up to age 26 to participate in their family's health insurance program, attempting to maintain exchanges.

If today we are asking you about how to make improvements to reach more people in our laws, that would be a reasonable thing, instead of the polemics that are going on here. Indeed, I think it is probably historic. I could not find another circumstance in which Members of the House and Senate ask a court to deny thousands, indeed, across the country millions of people an opportunity to get a Federal tax credit, to say please deny -- in Texas, our two Senators -- please deny our constituents $206 million every month in Federal tax relief, but let them keep paying taxes to finance the same kind of tax credits for people in California.

Or someone from Wisconsin -- since Chairman Ryan joined the same brief in the Court -- who says, please have my constituents continue to pay taxes to fund tax credits in Connecticut, but deny thousands of people tax credits in Wisconsin.

It is an unusual situation, to say the least, that that kind of approach would be taken.

I believe we need to look for improvements in the law, to strengthen the law, but that the idea of denying relief to people who are receiving it right now is to take away from them Federal tax assistance and to take away from them the opportunity to get the insurance that is working for their family.

Mr. Doggett. To say that it is a lemon to provide families the relief with insurance for preexisting conditions that they never had before, something that is lifesaving in many cases, is truly a misstatement about the work of this legislation. Thank you very much.

Chairman Ryan. Thank you. The time for the gentleman has expired. Mr. Roskam is recognized.

Mr. Roskam. Thank you, Mr. Chairman. Secretary, thanks for your time today. There are two issues that I would like to use our couple of minutes together on. They are related. It is the discussion around cost-sharing reduction payments and then also the basic health program. So just to set the table, the cost-sharing reduction payments, the issue is whether the administration has the authority to spend out of an account that hasn't been appropriated.

As you know, Chairman Ryan and Chairman Upton wrote to you and Secretary Lew on February 3. Your response back at a staff level, look, I mean it was sort of predictable. It restates the obvious in terms of a number of truisms about the Affordable Care Act. And then it says go talk to the lawyers at the Department of Justice because there is pending litigation. A little bit of a cute response in my view. But it is your play. Now, where there is no litigation pending and the issue is exactly the same is on the issue of basic health programs. So it wouldn't be satisfactory to say you got to check with Justice. Because they are not involved in any litigation because there is no litigation between us at this point in time.

So here is my question. The law is really clear that you can't spend money that hasn't been appropriated. There is no ambiguity about that. The Constitution is clear. The GAO states this. Many, many, different entities say that money cannot be spent absent an appropriation. And, yet, there are a number of States that are announcing that, you know, Minnesota was a State that says they are going to be implementing the program.

New York has announced that they will operate the basic health program starting in January of 2016. New York has estimated that they will receive $2.5 billion, B, billion. How is this possible since the money has never been appropriated? In other words, what extra-constitutional authority are you invoking that allows you to spend money that has not been appropriated?

Secretary Burwell. With regard to the issue of 1311 and where that is, I think 1311 is about States that want to choose and try and do things in ways and seek flexibility. And that is what we try and do is work with States when they do that.

With regard to the authority, both for the cost sharing and the issue of 1311, in the budget appendix, page 1046 and 1047, is the place where we believe these authorities lie.

Mr. Roskam. But there has been no appropriation, you will acknowledge that, won't you?

Secretary Burwell. With regard to the authorities there, what we believe is the authorities for the APTC are the authorities because that is what the money --

Mr. Roskam. But you are conflating two concepts. You are conflating authorization, which I am not arguing with, and appropriation. There has been authorization. But there has been no appropriation. So how do you appropriate money that hasn't been appropriated?

Secretary Burwell. But programs that are tax credits or programs aren't a part of our discretionary budget every year. In terms of discretionary programs, I mean, the Earned Income Tax Credit, other tax programs and tax credits are not a part of the discretionary process.

Mr. Roskam. So just to follow up, would you be willing to come in and give a briefing to me and also to Chairman Tim Murphy who chairs the Oversight Subcommittee at Energy and Commerce to clear up these things when we have more time together?

Secretary Burwell. Congressman, we would look forward to the opportunity to try and clear this up and have the right people come and discuss these issues.

Mr. Roskam. Thanks very much. One other just quick point, you mentioned in your opening statement that there was $22 billion in fraud savings, which is okay, not great. The problem is, and Mr. Lewis and I found this out together, along with all the members of our subcommittee, Medicare, by Medicare's own admission, is wasting $1 billion a week, every single week in fraudulent and erroneous payments.

So $22 billion over the decade is okay. But it is like turning it off halfway through the year and then letting 9.5 years go and do nothing. So I think we really need to up the game. I yield back.

Chairman Ryan. Thank you. Mr. Thompson.

Mr. Thompson. Thank you, Mr. Chairman. Thank you for having the hearing. And thanks for helping to subsidize my California constituents and their health care. I appreciate that.

Madam Secretary, thank you very much for coming out. I just want to say that I hear a lot from my constituents as well about the ACA. I hear from people who are pleased that the preexisting conditions is no longer an issue for them, that their 26 year-old can stay on their policy, that they have access to quality preventive care, which I know for a fact

will save us all money in the long run. But I also hear them say that they recognize there are problems with the ACA. And they want us to work together to fix those problems.

So I don't know how it could be a lot different than other parts of the country. My experience has been that folks want access to quality affordable health care. And we do have a responsibility to figure out how to make that happen. And I appreciate your effort in that regard.

So I am all for fixing, making tweaks, making adjustments. Congresswoman Black and I are going to introduce legislation today, as a matter of fact, that falls into that category of making a tweak, making a fix. And we are going to introduce a bill that would ease the reporting requirements for employers offering coverage for their employees. And it would require that the exchanges use the most recent tax data to ensure that individuals and families will not have a large tax bill at the end of the year.

As I am sure you know, Covered California in my home State of California, requires that the most recent tax data be used. And it has worked well. It has been beneficial. I am just wondering if you have any thoughts on requiring the more recent tax data to determine eligibility for subsidies, especially for auto renewals, and making that apply to all the exchanges?

Secretary Burwell. I think it is in our interest. And what we want to seek to do is get the most up-to-date information that we can possibly have which is why we encourage people to come in and update throughout the year. And we continue to do that.

With regard to the specifics of this piece, I think we would have to look at the legislation. I am not sure if it sits with Treasury or with us. But we would work together to understand. Because I think what we want is actually to have the most up-to-date information. And that information for some people is an evolving and changing piece of information. For those who are self-employed, their incomes change throughout the year. And we do have means by which they can come in and update it. And we try and encourage them to do that.

So, the most up-to-date information that we can implement is something that we do support. And so with regard to the specifics of the legislation, we would like to have the opportunity to look at it and understand between us and Treasury where we could be.

Mr. Thompson. Thank you. I also had some questions regarding the RACs and the appeal process that I understand from your staff that we are going to work together outside of the committee hearing to deal with that. So I appreciate that commitment. I am assuming it is shared by you.

Secretary Burwell. Yes, it is. And I would also use this just as an opportunity again to mention the piece of legislation bipartisan that Senate Finance just passed this past week on this issue, in terms of the strategic approach to help us get to a place where we can reduce that backlog of appeals. There are administrative things we can do. But we do

need some statutory help. And Senator Hatch and Mr. Wyden have led an effort on that side. We are hopeful we can work with you all too.

Mr. Thompson. Great. And then Mr. Boustany had some questions about the HRAs. And we are working together on that legislation. I hope that we can have the help of your agency in making sure that this is the best legislation possible.

Chairman Ryan. Thank you.

Secretary Burwell. We will work with you.

Mr. Thompson. Thank you. I yield back.

Chairman Ryan. Dr. Price is recognized.

Mr. Price. Thank you, Mr. Chair. Madam Secretary, with respect, many of us here and many across the land sincerely believe that the principles that you outlined that all of us hold dear, accessibility, and affordability, and quality are all being harmed by the current path that we are on.

And I want to highlight some of the problems in the system that are, I believe, we believe, harming patients and in many cases destroying the ability of those working as hard as they can to care for those patients. One of them is the Electronic Health Record and Meaningful Use.

CMS is now dictating to physicians what must be documented and how it must be documented, without regard to what is truly important and necessary for taking care of patients. It is wasting money. It is wasting time. It is wasting resources. And, sadly, it is wasting the expertise of physicians, leading to further disgust on the part of physicians, many leaving practice. In fact, I know two individuals who said this was the last straw and they quit, at an age where they could be able to practice for years and years.

There are positive solutions if we allow for flexibility and respect to those providing the care. ICD-10, another example of CMS making it more difficult for physicians to care for patients. In some cases, in small and rural practices, as we have discussed, it will drive physicians out of business. So access is destroyed for those patients in those areas.

The U.S. inappropriately combines and confuses clinical data, that is what is happening medically with a patient, with billing data, under the guise of wanting more information and saying that everybody else in the world is doing it. Well, the fact is that the U.S. will be the only country to use all 87,000 codes, the only country to use it in an outpatient setting, the only country to use it in a billing process, and the only country to put the cost on the shoulders of the physicians and those providing the care. This happens on October 1. If past is prologue, sadly, it holds real potential to be a significant disaster, further harming docs and patients. I urge, I urge CMS to delay any penalty for coding errors for at least 2 years. It is only reasonable given the magnitude of the change coming.

Durable medical equipment, oftentimes the only thing that stands between a patient's quality of life and hospitalization or illness, exacerbation, or even death in the instance of the provision of oxygen is DME and a caring provider. Yet, CMS has put in place a system of what they call competitive bidding, what you call competitive bidding. It doesn't work. It is harming patients. And it is driving folks who have been wonderfully providing care and service in communities all across this Nation out of business, further harming those patients. I urge, I plead with CMS to allow, at least allow a pilot demonstration to show there is a much better way to save money and also provide services to patients.

Sadly, Madam Secretary, the President continues to shamelessly condemn and attack those standing up for patient-centered health care. As recently as yesterday, he ignored reality and cynically mocked those striving for positive solutions. We know that he has got a pen and a phone. What he doesn't seem to have is the knowledge or the humility or the concern or the desire to work together on behalf of those struggling to provide care and those receiving the care.

Madam Secretary, I urge you, I urge you and your team to join with us in an open-minded way to end the oppression of meaningful use, to provide for flexibility with ICD-10 so that more practices aren't destroyed, to allow for a pilot program to demonstrate that competitive bidding is hurting patients and that there is a much better way, and to give physicians the freedom to care for patients.

If you are sincere in your desire for accessibility and affordability and quality, that would lead to your action working with us. And I look forward to that and hope that we will be able to move in a positive direction. Mr. Chairman, I yield back.

Chairman Ryan. Thank you. Mr. Larson.

Mr. Larson. Thank you, Mr. Chairman. And thank you, Madam Secretary, thank you for your service. Hailing from the great State of Connecticut, we are so proud of the advances of the Affordable Care Act. And it is great to have a Governor that is hands on in terms of its implementation and all the progress that we know that has been made and will continue to be made under this act.

Mr. Chairman, I would like to submit for the record a 28-page report entitled "The Language of Health Care, 2009," by Frank Luntz. Is there an objection? Mr. Chairman?

Chairman Ryan. No objection.

[The information follows: The Honorable John Larson]

. Larson. No objection. And I think that, I have a great deal of respect for Mr. Luntz as well. And he and Stan Greenberg, also another pollster and someone who spends an awful lot of time on the science of language, in looking at, in detail, what people should

say around subject matter areas. Now, this is particularly of interest to me because it passed, you know, this was recommended in 2009. And, basically, Mr. Luntz describes the 10 rules for stopping the Washington takeover of health care. And it is informative even to this debate today.

For example, one of the things he says, the arguments against the Democratic healthcare plan must center around politicians, bureaucrats, and Washington, not free markets, tax incentives, or competition. So we will hear a lot of that. It also goes on to underscore, you simply must be vocal and passionate on the side of the reform. The status quo is no longer acceptable. If the dynamic becomes President Obama is on the side of reform and Republicans are against it, then the battle is lost and every word of this 30-page document is useless.

He goes on to say this, and this is the whole point, it is not enough just to say what you are against. You have to tell them what you are for. It is okay and even necessary for your campaign to center around why this healthcare plan is bad for America. But if you offer no vision for what is better for America, then you will be relegated to insignificance at best and labeled obstructionist at worst. What Americans are looking for in health care is what your solution is, what it will provide. The words of more access, more treatments, and more doctors are sure winners. I agree with Mr. Luntz there. And that is what this subject should be about, for us providing more access.

Madam Secretary, may I ask you, are you aware of any Republican legislative proposals that reduce the number of uninsured in this country by more than 60 million and make sure that we continue to provide all the benefits of addressing preexisting conditions, keeping your children on the plan, and making sure we focus on prevention?

Secretary Burwell. I have not seen a proposal that does that.

Mr. Larson. I thank you, Madam Secretary. And with that, submitting this full report for the record, I think it is worth everybody's reading. And we ought to get back to what this committee should be doing. And that is to put Americans first and put Americans on the road to having the best access, more access, more accessibility, and more availability to health care. Thank you.

Chairman Ryan. Thank you. Time for the gentleman has expired. We are now going to enter into the two-to-one phase, two on our side, one on the D side, to keep it equal. Mr. Buchanan.

Mr. Buchanan. Thank you, Mr. Chairman. Thank you, Madam Secretary. And I appreciate you taking the time this week to give us a call, give me a call and get a chance to visit. My biggest concern, you made four points. At the top of the list, I was chairman of the Florida Chamber. We had 137,000 businesses we represented. Most of them were 50 employees or less. So a lot of small businesses. But the biggest issue, and it is before the ACA, goes back 15 years, is affordability. And there was an expectation or hope that we could bend the curve on affordability. There is no question people who get the

subsidies, they benefit. There is over a million in Florida. But there is many just above that line, poverty line that don't get the subsidies.

And I want to talk on two bases first. Small business, their cost of trying to provide health care has gone up 20 to 30 percent the last 3 or 4 years. I just talked to another person the other day, has 130 employees, it went up 30 percent. But throughout Florida, throughout our region, we are not seeing any reduction or anything in terms of affordability from that standpoint. And many times, last week we had a town hall, we had one woman, or a couple weeks ago, we had one woman said it is $2,000 a month to get health care. She can get it for less. But then she has to pay some kind of a $10,000 in terms of her health care if she has a claim. What is your thought on the affordability, where we are at as it relates to people who don't get subsidies?

Secretary Burwell. When we think about the affordability, I think we think that some progress has been made. And as you appropriately reflect, what we were seeing before is we were seeing rising deductibles and we were seeing growth. And we have seen a slow in the premiums. The things that we have seen slow down, is we have seen a slow in premium growth across a number of categories. We have also seen that Medicare savings that I mentioned earlier, over $300 billion in terms of where we are in our Medicare pricing.

The other thing that is indicative is that we have seen the per capita healthcare costs grow. As a Nation, because we have so many people retiring and coming into Medicare, the overall costs of health care is probably going to go up because we have more elderly. So we do focus deeply on that per capita --

Mr. Buchanan. Well let me just mention, because we are short on time, we are not seeing the discounts, per se. I would love to have you come to Florida and talk to a lot of small business people. We are not seeing those, any kind of discounts. Most of it is 20 to 30 percent increases. Last couple of years, they were hopeful but they are not seeing it. And then, unfortunately, a lot of the cost get pushed to the employee.

Secretary Burwell. That is right.

Mr. Buchanan. And so, many of the employees that were maybe picking up a couple hundred bucks a month, now they are paying $500 to $600 out of their pocket. If they don't get a subsidy, many of them are being gutted. So we like to talk up here a lot about the middle class. But this is, a lot of this is putting the middle class at risk in terms of healthcare costs. And what is your thoughts on that?

Secretary Burwell. So I think this is why one of the things I think we need to focus on now deeply is delivery system reform. And that is the idea of better, smarter, healthier. And by that, it is both about quality and I think we have to be careful when we talk about this topic because people hear it and we need to make sure we preserve quality and improve quality. Why in our country do we have some of the lowest levels of quality offerings for health care? It is about improving quality and affordability.

And right now, one of the things that we did, and in January we committed that the Federal Government, that Medicare payments, 30 percent of them by 2016, 50 percent by 2018 will be based on value instead of volume as a part of working on this overall issue. Because we want to hear what you are hearing and that is important to us. And so that is a part of why we think this is so important.

Mr. Buchanan. Let me close with the idea, because I have a few seconds, I hope we can focus more on affordability, all of us. Because it is bankrupting a lot of people that don't get subsidies. That is the reality in Florida for small business and individuals. So the focus needs to be on affordability, finding a way to bend the curve on healthcare costs. Thank you, Madam Secretary.

Secretary Burwell. We look forward to the opportunity to actually work with you on some of these delivery system reform issues.

Chairman Ryan. Thank you. Mr. Smith.

Mr. Smith of Nebraska. Thank you, Mr. Chairman. And thank you, Madam Secretary, for being here today. Limited time and a lot to cover here. As you know, as we spoke earlier about the consumer operated and oriented plan programs which were the alternative to the public option, I would argue, perhaps, these are somewhat quasi-public options, intended to be low-cost, government-subsidized healthcare plans. And to date, I believe HHS has awarded $2 billion in Federal loans to establish the plans.

One plan, as you know, CoOpportunity, which served over 100,000 people in Nebraska and Iowa, was seized by the State of Iowa and has since been liquidated. Folks who were on the plan have been left confused and frustrated and, again, looking for other plans. And I sent a letter on January 23 asking specific questions. I did receive a response on May 21. I would like to request unanimous consent to submit both of these letters for the record.

Chairman Ryan. Without objection.

[The information follows: The Honorable Adrian Smith]

Mr. Smith of Nebraska. Thank you. Now, quickly some questions. CoOpportunity received approximately $146 million in Federal loans. Will any of those dollars be paid back to the Federal Government?

Secretary Burwell. With regard to that, that is a question I will follow up on.

Mr. Smith of Nebraska. Okay. I appreciate that.

Mr. Smith of Nebraska. My understanding is Iowa and Nebraska were told they could not suspend enrollment within CoOpportunity and have it remain a qualified health

plan. Yet, Tennessee was later allowed to do so. Do you know why that policy changed?

Secretary Burwell. So per our conversation, I actually did follow up with CMS. And we didn't have the record of that request in any way coming in. So I would love for our team to be able to follow up and understand if there was miscommunication. Because, based on your comment, it was something that was concerning to me when you mentioned it. And I went and followed up. So if we can work with your staff to understand what your staff understands happened, that would be helpful.

Mr. Smith of Nebraska. Okay. Recent reports claim only one co-op didn't have an operating loss in 2014. Is that accurate?

Secretary Burwell. I would have to go co-op by co-op.

Mr. Smith of Nebraska. Okay. Are there any concerns about possible liquidation of any of the other plans in the near future or not so distant future?

Secretary Burwell. With regard to the co-ops, because they are all new businesses, they are start-ups, like the small businesses that we were just talking about before, you know, we are going to have failures in terms of the co-op system. That was a part of what was set up in terms of the original $5 billion that the Congress gave, but then through sequester and other means went to $1 billion.

So I think that there will be co-ops that will have challenges and issues. I think we are working closely with the States and State insurance departments to make sure that we get in front of them and do the kinds of things that we attempted to do in the CoOpportunity situation, which was make sure as much as possible and where it was appropriate we would engage in supporting communication, offering a special enrollment period, and working with the State insurers to use our and any authorities we had to make sure that those consumers were taken care of.

Mr. Smith of Nebraska. Okay. Will any of the consumers who lost coverage from the failed co-op be penalized by the individual mandate?

Secretary Burwell. I do not know how many are not still in the system. But I will check and will follow up on that. My understanding is no but I want to confirm that before --

Mr. Smith of Nebraska. In that vein, I have introduced H.R. 954, which would exempt anyone who has lost health insurance from the failed co-ops from the individual mandate. Could the administration support that approach and that piece of legislation?

Secretary Burwell. What I would love to do is have the opportunity do see if that is something that has already happened or not and then review the bill.

Mr. Smith of Nebraska. Okay. Now, in the bigger picture of obviously large sums of money being offered to these consumer- operated and oriented programs, what is the likelihood of those dollars being paid back?

Secretary Burwell. With regard to the loans that have gone out?

Mr. Smith of Nebraska. Correct.

Secretary Burwell. I think with regard to a number of the co-ops, that will happen in terms of the successful co-ops and those that are gaining traction and working. As I said, there may be some that are not. And we will get back on that specific question.

Mr. Smith of Nebraska. It seems to me also that the various States relevant to this issue might have a different approach for paying the claims that were submitted by -- how on top of this are we? Because it is, in Nebraska, there is a fall back and, yet, it hurts more people. I apologize. My time has expired.

Secretary Burwell. State insurance law, as you know, is a big part of how that gets determined. But we try and work and support the States with different options.

Chairman Ryan. The time for the gentleman has expired. Mr. Blumenauer.

Mr. Blumenauer. Thank you, Mr. Chairman. Madam Secretary, I appreciate your reluctance to deal with hypothetical legislation that hasn't yet been written to deal with a legal decision that hasn't yet been rendered. I think that is prudent. But if this occurrence takes place by the court, it seems to me that it would not be rocket science, as some of my colleagues have mentioned, to make relatively minor changes, to conform statutes to the intent and text of the bill and move forward. I think the committee could take one weekend and fix it and move on.

I would like to shift gears slightly. We have had an ongoing series of conversations, it has been 6 years since a provision I authored was approved unanimously by this committee, not just by part of it, unanimously by this committee, dealing with end-of-life care. That provision, despite a kerfuffle and certain rhetorical flourishes, remained in the legislation. Unfortunately, it fell victim to the reconciliation process. And 6 years later, we are still trying to achieve those objectives.

Although the world has moved on, a best-selling book by Atul Gawande, Bill Frist, Billy Graham, all agree that this is necessary. You recently received a letter from 65 notable national organizations calling on you to have Medicare reimbursement for advanced care planning. As you know, the AMA did the coding. It is all teed up, ready to go. We thought the administration was going to be there. And, yet, it lingers.

Published, peer-reviewed research shows that advance care planning leads to better care, better patient and family outcomes, fewer unwanted hospitalizations. The list, as you

personally know, is compelling for this service. Is the administration prepared to finally move forward and authorize it?

Secretary Burwell. With regard to, as I think you just mentioned, the AMA has given us the guidance and the coding. And we are in the process of reviewing that. And as we indicated in a recent rulemaking, indicated in our preamble that that is something that we are working on and reviewing the current coding.

Mr. Blumenauer. So it has been 6 years since Congress embraced it. The committee approved it unanimously. We have had the research clear, the IOM dying in America. I am trying to understand what is it that is so hard to figure out whether or not this is part of the legacy of the Obama administration, which has done some good things with health care. This seems to be a really terrific thing that is really simple, that would make a huge difference in people's lives. Private insurance is moving. What is it that is hanging this up? Why can't we just get to yes?

Secretary Burwell. Congressman, as we have said and in our conversations and our team's conversations with you, this is an issue we are going to continue to work on. Because we want to make sure if we move that we do make the progress that we would intend to make.

Mr. Blumenauer. Well, I find it mystifying that the rest of the world is aligned. This is one of the few things that this committee agreed to unanimously and that we see the difference it makes in human lives. And the administration continues to study. And I really hope that this could be part of the legacy and that it is part of the 2016 reimbursement.

I find it frustrating beyond my ability to express. I am happy to walk, I have walked the plank for this administration on things before. And this is really troubling.

Chairman Ryan. Thank you. Time for the gentleman has expired. Ms. Jenkins.

Ms. Jenkins. Thank you, Mr. Chairman. And thank you, Madam Secretary, for being here today. I want to echo the comments of Chairman Ryan and others on the committee regarding the Supreme Court's decision later this month on the constitutionality of this President's healthcare law. Many Kansans are poised to lose their subsidies, which is the only thing that makes their insurance somewhat affordable. Many of my constituents will be facing increases over 30 percent next year, which, in addition to the loss of their subsidies, will make their insurance unaffordable.

And I am extremely frustrated because I had an exchange with your predecessor, Secretary Sebelius, 3 years ago on February 28 of 2012, when she was a witness here before the committee. And on that day, I expressed my concern that I did not see anything in the President's healthcare law that would allow Federal subsidies to flow through non State based exchanges. And I told her the administration didn't have the authority to allow these subsidies to flow through Federally facilitated exchanges, even

though the IRS at the time was telling Congress that the distinction didn't matter. Because in the law, there is no mention of the term Federally facilitated exchanges.

Even though Secretary Sebelius promised me that HHS would give me a detailed answer in writing defending her interpretation of the law, she never did. And, obviously, this issue didn't go away. And now the Supreme Court will finally weigh in on it. And I am equally concerned when you suggest that the decision before the Supreme Court is just about the subsidies. Because it isn't. We have research here from the American Action Forum which talks about all of the positive outcomes from a decision by the Supreme Court against the administration. Over 11 million individuals freed from the individual mandate, over 260,000 businesses freed from the employer mandate, hundreds of thousands of new jobs, 1.2 million workers added to the labor force.

With limited time, what I would like to do is turn my attention to a different topic. I have introduced legislation the past 3 years, along with my colleague, Representative Kind from Wisconsin, to repeal a provision in the healthcare law that allows folks to go to their doctor to get a note in order to purchase over-the-counter medicines with their HSAs or FSAs. And this presents patients with a maze of government red tape that they must navigate in order to purchase over-the-counter medicines, whose use saves the healthcare system money.

Additionally, it presents physicians with the bizarre scenario of unnecessarily seeing patients in order to prescribe over-the-counter pain relievers or allergy medicines. This provision makes care less affordable, more confusing, clogs doctors' offices, and makes patients less likely to use over-the-counter medicines. So, Madam Secretary, I was just wondering if you think that this is good policy and if you would support us in repealing this provision?

Secretary Burwell. So, as I have articulated, one of the things we are focused on is this idea of how we can improve quality and move towards affordability. The specific piece of legislation, I am sorry, I am not familiar with, I am not familiar in terms of the issue that I think you are trying to resolve. And so this is one I would want to understand. I also do want to return to where you began.

Ms. Jenkins. Okay. But, in theory, would you support this if we could convince the chairman to markup the bill and move it over to the Senate? We have done that once. It has already passed with bipartisan support out of this committee and out of the House once before.

Secretary Burwell. Congresswoman, I would want to look at the substance of the issue before I could comment specifically on that. It is not one, I am sorry, I am familiar with.

Ms. Jenkins. Okay. All right. Thank you, I yield back.

Chairman Ryan. Thank you so much. Mr. Paulsen.

Mr. Paulsen. Thank you, Mr. Chairman. Madam Secretary, thanks for being here. In the limited amount of time, I want to address a couple of things. In Minnesota, unlike many States, we had a pretty low uninsured rate prior to the President's healthcare law kicking into effect. You know, we had a high-risk pool for people who had preexisting conditions. It has been existing since 1976. And it certainly wasn't perfect but it worked pretty well. That high-risk pool was closed to make way for the new State exchange program that was set up.

And now a lot of the headlines, similar to what we have heard from some our colleagues and concerns about premiums rising, headlines over the last few weeks in Minnesota that have appeared in some of our papers, show the experience under the new exchange and the President's healthcare law has been affecting their pocketbooks right? And so it got here, you know, eight Minnesota healthcare plans propose premium hikes from 11 to 74 percent.

We have got another story here, Blue Cross and Blue Shield of Minnesota, which is the largest insurer in the individual market, which you mentioned earlier about the individual market, having the marketplace work, they announced proposed average increases of 54 percent. So certainly this is a pocketbook issue for families, for individuals, for small businesses alike. And that is why I really do hope, regardless of the court decision and how that goes, that we will be able to work with the administration on addressing some of these affordability costs. Because I think when you are talking about premiums, this goes to the heart of affordability, as opposed to talking about, you know, per capita healthcare costs being lowered in Medicare and other areas like that.

So just some commentary there, that I hope that cooperation will be coming forward. Because we need that. We need that on a host of issues if we are going to solve some of the challenges rather than just digging in and just protecting every provision of the law as it is intact right now. And I will just mention this. Is, you know, my interest with medical devices and medical technology, which we talked about last week, is very important in my State. And America has been a leader in developing these technologies and cures. And innovation happens at a really rapid pace. But often the regulatory process does not keep pace. And I don't think it is acceptable that American-made technology is available to citizens in other countries and it is not available to our patients here at home.

And the number one concern that I hear now from patient groups, from doctors, from investors in new med-tech companies, from manufacturers isn't the FDA. The biggest hurdle they now face is CMS and the lack of certainty surrounding coverage and coding and reimbursement. And these decisions take 2 or 3 years. And that is after the devices have already been approved. And they have already been approved. And this creates a lot of uncertainty for manufacturers, doctors that want to utilize the best available technology for their patients.

So I guess my question is, you know, what can HHS do to oversee CMS, right? Which is under your authority, to make sure that we are bringing certainty to the coverage, to the

coding, and to the reimbursement process for medical technology that, quite honestly, can lead to less invasive procedures and a whole host of areas of health care they can actually save money. But it is definitely an impediment right now.

Secretary Burwell. On the issue of the DME and CMS, we want to continue to work and would like to work. What we are trying to do is get that balance between making sure, we have all talked a lot about healthcare costs and growing healthcare costs, so making sure that the evidence-based decisions in terms of CMS saying they will pay for it.

FDA determines its safety. And then CMS determines if we will pay, if, you know, the benefits are such that it should be a part of a payment scheme. And we will continue to move things through quickly. But we will also continue to try and figure out the ways that we balance it. If there are places and things that people, that you have ideas about faster, that is something that we would welcome in terms of what you are hearing from the companies.

The other thing I think it is important to touch on the premium issue. What has been in the news recently is actually a part of the ACA's effort to make sure that we have transparency and downward pressure on premiums. What has been in the news recently is any premium increase that is above 10 percent has to be reviewed. It has to be reviewed by State insurers. And so what you are seeing in the space right now in many of the articles, I am not sure of all the headlines you read, but a number of those headlines are about the fact that these are now their first submission. And last year we saw this come down because the review process works. Because there are conversations like this in public, that it creates downward pressure on those premium increases.

So it is a part of the process. And it doesn't reflect the whole base. Most insurers are saying that the majority of their people that they think they will enroll next year in 2016 will have premium increases less than 10. So we agree with you on the importance of that downward pressure.

Chairman Ryan. Thank you. Mr. Kind.

Mr. Kind. Thank you, Mr. Chairman. Madam Secretary, thank you for being here. Obviously, there is a lot of attention and focus on King v. Burwell and where that court ultimately comes down. But in your opinion, how quickly or easily could this Congress, if it wanted to, enact legislation language to fix that overnight if it is an adverse decision from the Supreme Court?

Secretary Burwell. So I think I would hesitate for me to say how quickly the Congress could act.

Mr. Kind. Assuming there is a willingness.

Secretary Burwell. But I think that the question of, the issue, if it is ruled that it is about the subsidy, that that is a relatively simple solution that one can do legislatively with regard to subsidies for those that are in the Federal marketplace.

Mr. Kind. I come from a State, Wisconsin, I am very proud of, but I have never seen a greater act of fiscal malpractice by the current Governor than what has been perpetrated the last few years in his denial of the Medicaid expansion money. And his budget this year is proposing over $300 million of cuts to our university system. But if he took the Medicaid expansion money over the next 2 years, that would bring into the State $350 million over the next 2 years.

It just seems to be basic math. And his denial of that is not only denying people who are tough to cover to begin with, but also getting that money into the State where it can do some good in Wisconsin. I know you especially and HHS have been working very closely with many other Republican Governors throughout the Nation to figure out a path forward on waivers, and modifications, and that. I would encourage you to continue those lines of communication. Because we need help in Wisconsin.

And he also rejected the ability for us to form our own exchange. So we are in that box right now looking at the Supreme Court. And we could have done it the Wisconsin way and created our own health insurance exchange. He chose not to. So if we do get an adverse decision, 166,000 Wisconsonites would lose their premium tax credits. And my guess is insurance then would be rendered unaffordable to them too. So there is a lot riding on this decision. And, hopefully, you will be able to continue to work with the States and convince them to do the right thing, especially in Wisconsin where we need help. But I also appreciate your focus, your sustained focus not only on delivery system reform, but payment reform, getting to a quality-based reimbursement system.

And I agree with my colleague, Mr. Buchanan, that more needs to be paid to cost containment. And there are some good news. And you have set up the new network on quality collaboration throughout the Nation. And I hail from the land of integration, coordination, quality measurements, best practices, value-based medicine and that. But in your estimation, how quickly can we pivot now from fee for service volume to a quality-based reimbursement system?

Secretary Burwell. So when one considers that Medicare dollars are a large portion, we believe that we can move to 50 percent by 2018. The goal for 2016, being 30 percent we set out. Because, obviously, I won't be here and so we needed to set a goal, an achievement that would be while we serve out. So we think that you can get to 50 percent of Medicare, at the point at which 50 percent of Medicare is based on value. And what we are trying to do is make that pass by this network. So I am meeting with the insurance, the CEOs, as well as CEOs of companies, because those are the other payers.

In New York State, Medicaid has committed to do the same thing we are. So I think the path that we have Medicare on is close to the trajectory for the Nation in terms of moving towards more value-based --

Mr. Kind. You mentioned New York. Why do you think more States aren't taking up this challenge and converting Medicaid to that type of payment system too?

Secretary Burwell. So I think that more States are interested. And in our conversations with States, I think a number of States are not wanting to have the public commitment. And so a number of States are a part of that network.

And across all States, I can look around and have talked to Governors from a number of your States that are willing and thinking about this because they believe getting the value-based payments in Medicaid, which is a large expense for the States, is a very important thing. So I think there are more States that are interested but are not at the point of public commitment.

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

Chairman Ryan. Thank you. We are now going to move to 3 minutes a person in order to try and fit in as many people as possible. Mr. Marchant.

Mr. Marchant. Thank you, Mr. Chairman. Secretary Burwell, in the period of time that the Affordable Care Act was being adopted, probably the most unpopular aspect of it and most debated in my district were the IPAB panels. Many names were given to those panels. And then last week, I think, I was able to cast a vote publicly that would abolish that panel. Yet, there is talk about strengthening the panel. There is talk about expanding the panel. Could you give us an explanation of what this talk is all about and what the purpose of it is?

Secretary Burwell. So with regard to the changes in our budget around IPAB, it is to strengthen and increase the Medicare savings. Because as we have all discussed, healthcare costs and the issue of healthcare costs, and Medicare being a core element of that, is a very important one.

What we are hopeful, and in the budget, the $423 billion of Medicare savings that is specific in specific ways, that we can all have a discussion about, I know there are those who disagree with us about the balance we have of provider and beneficiary approaches to getting that money. But I think what we believe is that IPAB as a tool, and a tool that the Congress would still engage with, because you all would approve anything that was suggested by IPAB, Congress would have the opportunity to give it a thumbs up or a thumbs down, is an important tool to keep the pressure on all of us.

Because I think we all know, Medicare expenditure is a tough issue. It is a very tough issue for everyone in terms of, even the issues we are talking about, about payments for DME or other things, that is what drives those costs upward. And so we believe it is a tool in the toolbox. We actually in our budget are depending though on specific issues that the Congress could review.

And right now, IPAB would not kick in, in the President's budget it would be 2019. If you don't do any of the changes that we would do, it would be 2022. And that obviously is in another administration.

Mr. Marchant. And so why has the President not named anyone to the panel?

Secretary Burwell. With regard to the issue of panel members, it is something that we believe that we should do in consultation with the Congress. And so that has been a place and I think it is because, as you were expressing, making sure that if you were going to name a panel, that there is appropriate congressional input.

And the other thing is at this point, now that we see the numbers, and we have made improvements in terms of the trust fund's viability over, you know, increased by many years, the need is not for now. And it would be in another administration. So the question of us naming the panel now --

Mr. Marchant. So the President will not name a panel in his administration?

Secretary Burwell. At this point, with regard to where we are in the budget, we have not yet done it.

Chairman Ryan. The time of the gentleman has expired, Mrs. Black.

Mrs. Black. Thank you, Mr. Chairman. And thank you for being here, Secretary Burwell. Mr. Chairman, I ask unanimous consent to insert this report from the Treasury inspector for tax administration for the record.

Chairman Ryan. Without objection.

[The information follows: The Honorable Diane Black]

Mrs. Black. The Affordable Care Act requires the exchanges to determine if applicants were offered health insurance by their employer. And if they were offered that comprehensive and affordable coverage, then those individuals are not eligible for the premium tax credit.

The Treasury inspector general recently reported in this report, stated that neither the Federal nor the State exchanges were able to verify most individuals' attestation that they were not offered health insurance by their employer. And this is happening despite the fact that the burden and the costly reporting requirements have been placed upon our employers. What is it that HHS is doing to ensure that people who receive these credits actually legally are eligible for them?

Secretary Burwell. So much of our, this is the APTC that you are referring to, correct?

Mrs. Black. That is right.

Secretary Burwell. So with regard to that, we have a data matching process that we are doing. And it checks both immigration status, as well as income status. And that is one of the processes we are doing to make sure that people who are eligible, and we release numbers, I think you probably saw last week where over 100,000 people came off the rolls because we weren't able to verify the information.

And so that is a process, it is a process last year that took a longer period of time. And now we have improved to a 90-day period of time.

Mrs. Black. So let me quickly go to the other part of this which involves the IRS. Because in their application, that is individual's application for this coverage, individuals are asked if their employer offered them health insurance. And the exchanges then are required to provide the applicant's response to this question along with the information related to the employer to the IRS in a monthly data report.

The Treasury found that neither the CMS nor many of the State exchanges were able to submit this information until well after 2015 filing season was complete. So it appears that two of those State exchanges have still not provided that required information. This is just one example of the numerous delays from CMS when it comes to Obamacare.

So healthcare.gov alone took over $1 billion to build. And yet it is apparent that these systems are still not fully functioning based on this report. So CMS undertook this mammoth project without effectively planning for the development or the oversight. And this has led to hundreds of millions of dollars, these are taxpayer dollars that are being wasted.

So my question is, can you outline the oversight that is being conducted to ensure that the legal requirements that were set up by the law are actually met and the systems are properly developed to protect our taxpayer dollars?

Secretary Burwell. Congresswoman, I want to check because this report, I think, as you all probably know, there have been over 50 audits of the Affordable Care Act, and I want to make sure that I am focused on the right one.

With regard to the one you are speaking about, if it is the one that I think that it is, we are now in a place where the information is going from the Federal marketplace to the IRS on a monthly basis. And, you know, with all of these audits that we have received from both IGs and the GAO, we continue to work through their suggestions. And I think that is that one. But we will follow up, if it is not the case, that we are now in a monthly reporting --

Mrs. Black. I would really appreciate your following up. Because it is related to this report. Thank you very much.

Chairman Ryan. Thank you. Mr. Pascrell.

Mr. Pascrell. Thanks, Mr. Chairman. And thank you, Madam Secretary. I am pleased that during your confirmation process, you expressed support for improving the safety of medical devices, a few of us have brought that up, by incorporating the FDA's new, Unique Device Identifier, the UDI, to assist in health insurance claims. Myself and Chairman Brady have talked about this in the past.

I am asking you today, despite this widespread support, that -- some in the CMS, I am putting it mildly, have resisted this important public health and patient safety effort. So we need the tools. Could you commit to work with the committee this summer to move the policy forward?

Secretary Burwell. I do commit. And I think we have made some progress of FDA and CMS working together on something that will actually be more implementable. So we are working on it. And it is something that your comments and the chairman's comments and others are something that I recognized when I came in. And so we have been working on it, but would look forward to working with the committee further.

Mr. Pascrell. Thank you. Let me shift a gear a little bit here. You would think that if my colleagues on the other side cobbled together all of the time they spent trying to undermine the ACA, they would have been able to come up with an alternative to this law. They can't find anything good to say about anything. So in this committee alone, we have had over a dozen hearings just on issues related to the individual and employer mandate. Many Members, in good faith I am sure, brought this up today. Not to mention nearly 64 votes to repeal or undermine the ACA. Make no mistake about it. That is what this is about. And how many have we had on this elusive Republican alternative I keep hearing about? Zero.

The reality is that this act is working. It has problems. Medicare has problems. Medicaid has problems. This is a very imperfect world, Madam Secretary. More than 10 million Americans have health coverage through the marketplaces. Eighty-five percent receive tax credits to help the cost of coverage. So while we are waiting, I am interested in one question, has the ACA impacted employer-sponsored insurance offering take up rates? And does the ACA maintain the financial incentives for employers to cover and to offer coverage? That is my question.

Secretary Burwell. So this past week, we have seen a piece of work by the Urban Institute with regard to the number of employer-base. The statistics that we have, certainly CBO's changes to its numbers, most recent changes to its ACA numbers have to do with the fact that they now have lowered the number of people they think will switch from the employer-based market to the marketplace.

And the Urban Institute numbers that came out this week said that there has actually, in a percentage basis, has been a slight, very slight, so I would call it basically the same, no decrease, but the same. It is a slight tip up, but not numerically, I think, significant. Actual maintenance of, those in the employer-based market. And so there has not been a decrease.

Mr. Pascrell. Thank you very much, Madam Secretary. I yield back, Mr. Chairman.

Chairman Ryan. Thank you. Mr. Young.

Mr. Young. Madam Secretary, thank you for being here today. The President after the G-7 summit this week said the Affordable Care Act is working. I mean part of what is bizarre about this whole thing is we haven't had a lot of conversation about the horrors of Obamacare because none of them have come to pass. And he continued, somewhat oblivious, seemingly, to some of the things I am hearing in my own district, saying, quote, "It hasn't had an adverse effect on people who already had health insurance."

You know, I am frustrated. And I know many Hoosiers are frustrated by some of the adverse impacts they have experienced, from diminished coverage options, to lack of accessibility in their own communities for care. A lot of people are being squeezed when they go into the exchanges with price increases on premiums. And then there are the penalties, of course, the mandate taxes that exist if they can't afford to buy health insurance.

And so I just want to humanize this a little bit for you. Because I know you are quite conversant in the statistics and the goings on of much of this healthcare law. Patsy, from my district in Jeffersonville, Indiana, her premium went up $135 a month. She no longer has access to the family physician that has cared for her for over 25 years. Brandon, from Greenville, signed up for health care his family can't use because his family's deductibles are too high. And they make just enough that they don't qualify for assistance. Jason, from Georgetown, Indiana, had to seriously consider paying the individual mandate tax because he couldn't afford to pay the increased premiums on the exchange and didn't qualify for an exemption. Debra from New Albany's monthly premium skyrocketed to $800 a month, more than her mortgage payment.

So these are just illustrative of what are larger problems in every State across the country, every congressional district. And, you know, to use the President's own words, these horror stories haven't come to pass. They are coming to pass. They are in existence right now. And I just want to know what you believe, Madam Secretary, I should tell my constituents who are trying to comply with this law. Are they merely collateral damage?

Secretary Burwell. So with regard to the examples and stories, I think they are important. And they are important to combine with the numbers in terms of what we know that, you know, 16.4 million people in our country are no longer uninsured. And the stories, I hear those stories and respect those stories. But having traveled 22,000 miles and been out, I heard the story from the woman in Texas who said you want to know how to treat MS? I will tell you how to treat MS. You get sick enough to go to the emergency room, and they will treat you. And now she said I will know how.

Mr. Young. So in the near term, what do we do, I am sorry for interjecting but time is short. What do we do for these Hoosiers who don't qualify for a hardship exemption?

Secretary Burwell. So I think, first of all, we need to make sure have they exhausted that remedy. And, please, we are --

Mr. Young. I have made sure they have. Our office has.

Secretary Burwell. And have worked through us. The other thing, on a number of the examples that you talked about, there is the issue of coverage to care and helping people understand how to select the right plan. The plans on the marketplace are very varied. There are many in terms of the questions of deductibility and that sort of thing.

Chairman Ryan. Thank you. Thank you. Mr. Renacci.

Mr. Renacci. Thank you, Mr. Chairman. And thank you, Madam Secretary, for being here. Earlier on, you said the administration is looking for fixes and improvements for the ACA. And I want to run by just a couple of them that I think would, it is disingenuous if you don't help make some of those fixes.

One of them deals with seasonal employees, the definition between seasonal workers and seasonal employees. I am not sure if you are aware of the conflict with that definition and some of the difficulty it is causing people in my district but also across the country.

The other is the readmission, hospital readmission program. This program was aimed at reducing unnecessary hospital readmissions called the Hospital Readmission Reduction Program. The goal of the program was really something that I would support and probably many of my colleagues support. In fact, it is estimated that nearly $18 billion per year is wasted on avoidable re-admissions of Medicare patients alone. However, the implementation of this program has been problematic, especially for those hospitals serving low-income populations.

Mr. Renacci. Evidence suggests that economic disadvantaged patients, especially patients eligible for both Medicare and Medicaid, are much more likely to be readmitted within 30 days of discharge regardless of physicians' efforts to educate them on proper post-discharge care.

Do you believe the readmission program criteria can be improved by adding clear adjustments for dual eligible status as well as for other planned readmissions such as those following trauma?

Secretary Burwell. So I agree with you on the issue of socioeconomic status and the difficulties that that can cause. We actually had a proposal and a rulemaking and a proposed rulemaking and a suggestion of how to make some of the kinds of changes. The remarks we received back were important issue, not the right way to go about it.

The Congress, thankfully, has given us also money to actually do this specific study of how we can work through this issue. We look forward to working with you on how we

correct it because we had a proposal that others didn't. We believe it is an important issue. When I analytically understand how we can account for that but at the same time do what your beginning point was, which is we know we have more readmissions than we should, both in terms of quality and price. And so getting to that is something we would like to do. We have tried to propose it. We clearly didn't get it there.

Mr. Renacci. Thank you. I have Ensuring Beneficiary Equity in Hospital Readmission Program, H.R. 1343, a bill that I have introduced which does have bipartisan support that I would hope the administration would consider and support.

Also, on seasonal employees, I have STARS Act, H.R. 863, really to clarify the conflicting definitions between seasonal workers and seasonal employees, which is causing compliance problems for both employers and individuals, interactions between seasonal, seasonality, the employer mandate and the individual mandate, really create opportunities for accidental noncompliance resulting in significant tax penalties for America workers and businesses alike.

So that is another issue I would hope that we can work on. Because these are issues clarifying and fixing, as you said, fixing or improving the current law. So I thank you, and I yield back.

Chairman Ryan. The gentleman yields back. I understand that the Secretary has a hard stop. I regret the fact that not every member will be able to ask questions of the witness at this moment. I would like to invite any member, particularly those who did not have the opportunity, to give us -- the committee their questions in writing. We will submit them to the Secretary, to the witness, and I ask the Secretary to respond in a very timely manner to these questions from the remaining Members.

Secretary Burwell. I would be happy to. I would be happy to and I think a number of you have my cell number, so feel free.

Chairman Ryan. With that to honor your time, your deadline, the hearing stands adjourned. The committee stands adjourned.

[Whereupon, at 12:03 p.m., the committee was adjourned.]

Member Submission for the Record

Public Submissions for the Record