

**HEALTH INSURANCE EXCHANGES:  
AN UPDATE FROM THE ADMINISTRATION**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON FINANCE**  
**UNITED STATES SENATE**  
ONE HUNDRED THIRTEENTH CONGRESS  
FIRST SESSION

NOVEMBER 6, 2013



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## **HEALTH INSURANCE EXCHANGES: AN UPDATE FROM THE ADMINISTRATION**

**WEDNESDAY, NOVEMBER 6, 2013**

U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.*

The hearing was convened, pursuant to notice, at 10:10 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Rockefeller, Wyden, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, Hatch, Grassley, Crapo, Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Portman, and Toomey.

Also present: Democratic Staff: Amber Cottle, Staff Director; Mac Campbell, General Counsel; and David Schwartz, Chief Health Counsel. Republican Staff: Chris Campbell, Staff Director; Jay Khosla, Chief Health Counsel Policy Director; and Kim Brandt, Chief Health Care Investigative Counsel.

### **OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The committee will come to order.

In February 1958, against the backdrop of a divided Nation, a junior Senator from Massachusetts spoke at Loyola College in Baltimore. The young Senator, named John Kennedy, said, and I quote, "Let us not despair, but act. Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past. Let us accept our own responsibility for the future." More than 55 years later, JFK's advice still rings true, and it is important for us to remember now as we implement the Affordable Care Act.

Five weeks ago, the administration launched *Healthcare.gov*. The Federal insurance website was to be the main vehicle for millions of Americans to sign up for coverage under the Affordable Care Act. Needless to say, it has been a rocky rollout. Problems have plagued the website and limited the ability of Americans to buy the health insurance they need and deserve. Let me say right off the bat, this is unacceptable. It has been disappointing to hear members of the administration say they did not see the problems coming.

Secretary Sebelius, the last time you came before this committee, I used two words to voice my concerns about the law's implementation. Since then, my words have been twisted and used to malign the Affordable Care Act.

Make no mistake, I believe in this law. I spent 2 years of my life working on the Affordable Care Act. There is nothing I want more than for it to succeed. But months ago, I warned that if implementation did not improve, the marketplaces might struggle. Other Senators on this committee voiced similar concerns.

When we asked for updates on the marketplaces, the responses we got were totally unsatisfactory. We heard multiple times that everything was on track, and we now know that that was not the case. But that is in the past. Now, it is time to move forward and figure out how to fix it.

Madam Secretary, you deserve credit for coming before Congress and the American people and accepting responsibility for the website's problems. Your focus is where it should be—on the future. It is very clear to me that you are working as hard as you can to fix *Healthcare.gov*. Keep at it.

When this law was created, we made a promise to the American people. We made a promise to fix a broken system. We made a promise to ensure that all Americans had access to quality, affordable health care. We made a promise to ensure that no one ever went broke just because they got sick.

You, Madam Secretary, must make good on that promise. Some people have called for your resignation. To borrow Kennedy's words, we cannot fix the blame for the past. You need to stay at HHS and help get the marketplaces working.

You said recently that you expect the website to be running smoothly for a majority of users by late November. There is no room for error. You must meet—and I prefer that you beat—that deadline. Why? Because these marketplaces open the door to quality care for millions of Americans who lack health insurance.

The nonpartisan Congressional Budget Office estimated that 7 million Americans will get insurance from the marketplaces in 2014, and, 10 years in, that number will grow to 24 million. There is no question—that cannot happen unless the marketplaces run at full speed. But I believe you will fix the problems, because you know how critical the marketplaces are.

For the first time ever, they guarantee consumers will have access to high quality, comprehensive insurance. Consumers will never be forced into bargain-basement plans or refused coverage for services like child birth or cancer treatment. They will never be denied coverage because of preexisting conditions. They will never be cut off because they hit an annual or lifetime limit.

We already have concrete examples of how the marketplaces are helping real people. Just consider these three stories from letters I have received since October 1st.

Gary from Billings, MT wrote that the monthly premium he pays for his family of four is currently just over \$2,000. But thanks to the Affordable Care Act, his monthly premium for next year will be \$1,165. He will save more than \$800 each month.

Allison from Wolf Point, MT wrote in to say that, thanks to the Act, she will have access to affordable insurance for the first time in almost 20 years. Allison suffered an injury in college and, because of that preexisting condition, the cost of insurance was prohibitive. Instead, she rationed visits to the doctor and cut back on outdoor activities that make living in Montana so great—no skiing,

no hiking, no horseback riding. But now Allison will have access to high-quality coverage that she can afford. She wrote that she looks forward to being active again.

And Tony, a small business owner from Bozeman, MT, wrote in to express his excitement that getting insurance on the market-place will save his small business \$10,000 a year. Tony wrote, and I quote him, "As a small business owner, I can emphatically state that the Affordable Care Act is not only good for my business, it is the only way I can afford to continue to provide health insurance for my family and employee." Tony says he can reinvest the \$10,000 he saves into staffing, training, and the hardware that his business needs to stay competitive. And he added, "This is good for my company, myself, my employee, my family, Montana, and our country." That is a pretty impressive list.

I have no doubt that stories like these will keep coming in over the weeks and months ahead, especially once the marketplaces are running at full speed.

Madam Secretary, I was glad to hear you set a target date to have *Healthcare.gov* fully operational. I look forward to hearing how you plan to meet that goal.

I want to make it clear that the purpose of this hearing is not to fix blame, but instead to shed some light on where things stand and, more importantly, to learn what the administration is doing to correct these problems. And, if there is a role for Congress to help, we want to be there. That is what matters right now.

So, as President Kennedy said, "Let us not despair, but act. Let us not seek the Republican answer or the Democratic answer, but the right answer." Let us get this done.

[The prepared statement of Chairman Baucus appears in the appendix.]

The CHAIRMAN. Senator Hatch?

**OPENING STATEMENT OF HON. ORRIN G. HATCH,  
A U.S. SENATOR FROM UTAH**

Senator HATCH. Well, thank you, Mr. Chairman. Thank you for scheduling today's hearing. And thank you, Secretary Sebelius, for being here today.

It has been nearly 6 months since you last appeared before the committee. Given all that has gone on during that time, particularly with the implementation of Obamacare, I would like to say that today's appearance is long past due.

When you were here back in April, you assured us that the implementation was on track, that it was all going smoothly, and that the exchanges would be ready to go by October 1st. Now, it appears that your statements from the previous hearings were, at best, misinformed. From where I sit, things do not seem to be going smoothly at all. In fact, I think we would all agree that thus far, the implementation of the so-called Affordable Care Act has been an absolute debacle.

You admitted as much last week when you testified before the House Energy and Commerce Committee, when you said, quote, "Hold me accountable for the debacle. I am responsible."

Madam Secretary, while I am glad that you are accepting responsibility for this disastrous rollout, I would have preferred that you

and the rest of the administration were honest with us to begin with. Perhaps in April, you really did believe that things were on track, but you had to have had several indications before October 1st that there were problems with the website and with the exchanges.

It is simply inexcusable that the members of this committee were not told earlier that these problems were occurring. And it was not for want of asking. I personally sent you a number of letters asking for details on the implementation of the health care law, many of which were ignored entirely. This cavalier attitude toward a Senate committee with oversight jurisdiction over your agency is, to put it simply, appalling and needs to be rectified.

If the past month has been any indication, there are likely to be numerous additional problems ahead. That being the case, I think it is only proper that you provide this committee with more regular updates on the issues with which you are dealing. In fact, I would ask that you come here once a month for the next 6 months to provide this committee with status updates on the implementation of Obamacare, and I hope you will agree to do so.

Like I said, Madam Secretary, it is clear that the problems you have encountered thus far were not unforeseen. Two separate reports—one from the Government Accountability Office in June and another from the Department of Health and Human Services Office of Inspector General in August—identified significant implementation challenges months ahead of the October 1st deadline. Yet, there is no indication that the warnings from these two independent, nonpartisan government watchdogs were heeded by the administration or that any thought was given to delaying the start-up date as a result.

When you were here on April 1st, I raised concerns about whether adequate testing was occurring to ensure that privacy controls were in place for the exchanges. In fact, I specifically asked you about having an independent entity review the entire system before it went live to ensure that all appropriate privacy and security controls were in place. You assured me that all testing protocols were being followed and that privacy issues were a high priority. However, we now know that no end-to-end testing of the system occurred before the system went live—none. In fact, key CMS officials knew on September 27th that there was a high security risk to the system if it went up as planned.

My colleagues and I have sent several letters since the spring asking for, quote, “more information” and what privacy controls are being instituted as part of the exchange infrastructure, and asking for details about whether or not testing was being done to address the privacy and security concerns we have raised. To date, we have not received any answers to those questions.

So, not only can millions of Americans not log into the website successfully, but those who have actually succeeded could find themselves at the mercy of identity thieves across the globe. I would call this a less than ideal situation for all of our constituents.

That brings us to another set of issues that I hope you will be able to shed some light on today. Let me start with a simple premise—words matter. We have all heard the golden saying “hon-

esty is the best policy.” Unfortunately, this age-old wisdom does not seem to apply to the Obamacare pledges. More and more promises made at the time this law was passed are now crumbling under the weight of reality on a daily basis.

Let us start with the famous pledge that health reform would reduce costs by \$2,500 for the average family. The truth is, with all the new mandates going into effect, the cost of health insurance in this country is projected to rise at a remarkable rate. Some studies, including one from the Manhattan Institute, estimate that individual market premiums will increase by as much as 99 percent for men and 62 percent for women nationwide.

Then, of course, there was President Obama’s promise when the law was passed that, “If you like your health care plan, you can keep it,” and that, “If you like your doctor, you will be able to keep your doctor.” This, to put it bluntly, is simply untrue. And that is why the *Washington Post*—this was October 30th—gave him four Pinocchios, which represents the highest level of untruthfulness. You really have to try hard to get four Pinocchios. You do not simply get them for making a misstatement.

Yet, it was not until the last few weeks that people in the administration and the White House started trying to rewrite what the President said. And let us be candid—it was not a newfound honest streak that changed the administration’s tone. It was the fact that Americans started receiving cancellation notices from their insurers. According to the Associated Press, 3.5 million people have received such notices thus far, and the same fate is certain to befall millions more before all is said and done.

Put simply, there is a long track record of broken promises and untruthful answers to both this committee and the American people with respect to how this law should work or would work and the impact it would have.

Now, I hope that that will stop today. No more caveats. No more excuses. No more spin. Just give us the truth. Answers like “we don’t know” and “we were wrong” are perfectly acceptable as long as that is the truth.

I want to thank you, again, Mr. Chairman for holding this hearing. As you can see, we have a lot to discuss.

I want to thank you, Madam Secretary, for being here. I know it is not the most pleasant thing you can do, but the fact of the matter is, these are real, legitimate questions that really have to be answered by you and others who are in charge of these programs. And I have not even gone into—I expect you are going to be able to get the IT problems solved, the information technology problems solved. That does not even begin to answer the questions about why small businesses are now employing people for 30 hours or less or why they will not employ more than 49 people, because they trigger a huge, huge expense under this, I think, very poor bill that was not well thought out to begin with.

Thank you, Mr. Chairman.

[The prepared statement of Senator Hatch appears in the appendix.]

The CHAIRMAN. Thank you, Senator.

I am now pleased to introduce our witness, Secretary Sebelius. Thank you very much, Madam Secretary, for appearing today. We appreciate you taking the time to explain what is going on here.

Obviously, your statement will be included in the record, and you know the drill. I would like you to speak, summarize, for about 5 or 6 minutes. Take as long as you want. This is a very important matter.

So, tell us what you want to say.

**STATEMENT OF HON. KATHLEEN SEBELIUS, SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC**

Secretary SEBELIUS. Thank you, Chairman Baucus and Ranking Member Hatch, members of the committee. I do appreciate the opportunity to update the committee on the final implementation phase of the Affordable Care Act.

The law, which passed both houses of Congress, was signed by the President and upheld by the Supreme Court. It gives millions of Americans an opportunity to obtain affordable health coverage.

This is the first opportunity for many Americans to get covered, including people living in pain, with chronic illnesses, young adults whose employers do not offer insurance, and parents struggling to keep up with mounting bills.

In the last 5 weeks, access to *Healthcare.gov* has been a miserably frustrating experience for far too many of these Americans. It is unacceptable. I am focused on fixing it, and I am accountable.

I recognize that there is an even higher level of accountability—accountability to the sick, the vulnerable, the struggling Americans who deserve better health care. The impact on the lives of everyday people is getting lost. I know this because I hear their stories, as I am sure many of you do.

We do have a team of experts working on an aggressive schedule so that the consumer experience on the web gets better every day. And, as the chairman has said, by the end of November, we are committed to having the site working smoothly for the vast majority of users.

While we do not have the fully functioning system yet that consumers need and deserve, we do have a plan in place to identify, prioritize, and manage the remaining fixes across the system. We have reinforced our team with dozens of key personnel from both government and the private sector, including respected expert engineers, technology managers, software developers, designers, and analysts from companies like Oracle and Red Hat. They are helping diagnose problems, making quick decisions with developers and vendors to analyze, troubleshoot, prioritize, and resolve issues in real time.

As this work continues, we know that Americans are shopping for plans, signing up and enrolling online, on paper, on the phone, and in person. In fact, more than 2 million people have already called into the call center, with average wait times of less than 30 seconds. But I want to share with the committee a few indications of our progress, what we have improved, and how we intend to fix the problems that remain.

Our two major areas of focus are performance, which deals with speed and reliability, and functionality, fixing the bugs and other problems in the system. In the first few weeks after *Healthcare.gov* launched, users had to wait an average of 8 seconds for pages to load. Today, it typically takes less than a second. A month ago, viewing and filtering health plans took minutes. Today, it takes seconds.

Many consumers used to see a blank screen at the end of their application process. Today, they see whether they are eligible for financial assistance, which is the next step in the process. Users are receiving far fewer error messages and timeouts. And we are now able to process nearly 17,000 registrants per hour with almost no errors.

We have made more than a dozen additional fixes this weekend, correcting information provided to insurers that allows applications to be processed and consumers to complete their payments, improving the save-and-continue function, and upgrading hardware so the system can handle more users with greater stability. Last night, we installed more upgrades, focusing on direct enrollment and improving the consumer experience, and those updates will continue on an aggressive schedule between now and the end of November. We are making progress, but there is still a lot of work to do.

Now, some have asked, "Why not just delay implementation of the new law until all of the problems are fixed?" and there is a pretty straightforward answer. Delaying the Affordable Care Act would not delay people's cancer or diabetes or Parkinson's. It would not delay the need for mental health services or cholesterol screenings or prenatal care.

Delaying the Affordable Care Act does not delay the foreclosure notices for families forced into bankruptcy by unpayable medical bills. It does not delay the higher costs all of us pay when uninsured Americans are left with no choice but to rely on emergency rooms for care.

So for millions of Americans, delay is not an option. People's lives depend on this. Too many hardworking people have been waiting for too long for the ability to obtain affordable health insurance.

We want to save families from going bankrupt. We want to save the lives of more of our friends and neighbors by allowing them to detect medical issues early. We want to keep prices down. Delay is not an option.

We are still at the beginning of a 6-month open enrollment which ends at the end of March, and there is plenty of time to sign up for the new plans.

I want to put this into perspective, Mr. Chairman. The average private insurance open enrollment is about 2 weeks in a work site. Many public plans allow for 4 weeks of open enrollment. And for Medicare, the yearly open enrollment, which is underway right now, is 6 weeks long.

The new marketplace was specifically designed for a long open enrollment, a 26-week period. And those who enroll by December 15th will be able to access their benefits on day one.

I am accountable to this committee and to the American public for getting the fixes in place, and we are committed to getting

*Healthcare.gov* fixed so millions of Americans can finally obtain the health and financial security they have been waiting for.

Thank you, Mr. Chairman. And I would be happy to answer questions.

[The prepared statement of Secretary Sebelius appears in the appendix.]

The CHAIRMAN. Thank you, Madam Secretary.

You addressed a principal question I was going to ask; namely, many people think that the site should be shut down until it is totally fixed and ask that question: why just keep limping it along; why not just shut it down and put it together the way it should be put together?

Many have pointed out that one-off fixes tend to have unintended consequences down the road, that is, at some other part of the system. There is no end-to-end running of the whole system after all the fixes have been made, and people ask why that has not happened, pointing out also that, every day when there is a story that someone did not get on, you get a blank page or there is a security problem, that is a bad media campaign. It is negative. It hurts you. It does not help you. So why not just have one bad story or shut down and fix it all? Then, when everything is working, however long it takes, several weeks, a month, who knows, then look back at that date when you were up and running and it was working well.

You have indicated that that delays health care for a lot of people, and I appreciate that, but one more time, why not just get it done right?

I have a series of rules in my office. I will not go through the whole set of rules, but one of them is “do it now.” And the second rule is “do it right the first time.”

Why not shut down and do it right?

Secretary SEBELIUS. Well, Mr. Chairman, I am relying on the advice of not only the inside team of contractors, but a lot of the outside experts who have come in to take a look at the system. And they did a number of things along the way. They did a series of diagnostics, looked at the entire system, and determined at the outset that *Healthcare.gov* is fixable, that it is not fatally flawed, which was the initial report out of many people.

Secondly, we have asked that question a number of times: would it just be helpful to take the whole system down and make fixes along the way? We have been advised that that actually does not help, that it is better to do routine upgrades, some of which are hot patches which can be done while the system is fully running. Others are better to be done in the maintenance period between 1 a.m. and 5 a.m., when the user experience is pretty low and we actually take the system down for periods of time.

But given the fact that the various fixes, particularly the functionality fixes, the codes, have to be written in batches, we have been advised that you do not gain much from just taking the whole system down for a week, a couple of weeks. It is better to do this on an ongoing basis and—

The CHAIRMAN. Now Jeff Zients, who I think is somewhat in charge of fixing some of this, near as I can tell, said he has a punch list, and they are going to punch them out one by one.

How many items are there on that punch list, and which of them have been punched out? When do you expect them all to be punched out? When do you expect to do the end-to-end testing after each one is punched out?

Secretary SEBELIUS. Well, Jeff has come in to help manage the operations between the contractors and the CMS team and the aggressive fix schedule. He will be with us, hopefully, through this process, and he has been enormously helpful in being a management lieutenant, with Marilyn Tavenner, the CMS Administrator.

I would say there are a couple of hundred functional fixes that have been identified, and they are in priority grouping. The first series of them are underway.

We are making—and it depends on the night; it is hard to give you a moment-by-moment snapshot. There were a number that were done last night. Hardware, additional installations were done over the weekend.

At 5 o'clock or 6 o'clock each day, it is really identified whether or not the testing for the individual coding fix can actually be applied that night. So the list changes.

But we will get you, Mr. Chairman, an update, and I would say we are well into the list. We are not where we need to be. It is a pretty aggressive schedule to get to the entire punch list by the end of November.

The CHAIRMAN. Are you going to do an end-to-end after you go through all of the couple hundred items on the punch list?

Secretary SEBELIUS. Well, actually, because the site is running, it is end-to-end daily. People are coming into the system and going all the way through the system every day, and that helps identify some of what we are seeing. So we are actually doing, in live time, end-to-end testing that then can inform the tech team what else needs to happen.

The CHAIRMAN. Well, speaking for myself, I want this to work. I want to do what I can to help you make it work. But it means you also have to—it is a 2-way street. You have to tell us what is going on candidly, fully.

Secretary SEBELIUS. Yes.

The CHAIRMAN. So we do not wake up into November and, lo and behold, it is still not there yet.

Senator Hatch?

Senator HATCH. Thank you, Mr. Chairman.

Secretary Sebelius, as you know, for months I have expressed concerns about the privacy and security controls being implemented as part of this Federally Facilitated Marketplace.

We know now that key officials in the administration knew that there were privacy and security risks, as well as serious operational issues that might occur if the exchanges went live on October 1st. Yet, a decision was still made not to delay the launch until those issues were fully addressed.

Many people, including myself, had called for an independent entity, such as the Government Accountability Office, for example, to conduct an end-to-end review of the marketplace to ensure adequate privacy and security controls were in place before it went live. So I have a number of questions about why you made the deci-

sion to go forward even when you knew there were serious security risks and operational issues that would likely occur.

Number one, when did you find out about the potential security risks to users of the website?

Secretary SEBELIUS. Sir, I would say that the August preliminary report from an independent reviewer—

Senator HATCH. So in August.

Secretary SEBELIUS [continuing]. MITRE, identified that there were risks. GAO had identified that there were risks. There are risks with every system that goes live, and we took those risks very seriously.

Senator HATCH. So by August, you knew.

Who briefed you on the potential security risks if the launch went forward as planned?

Secretary SEBELIUS. Again, Senator, I—

Senator HATCH. Did anybody brief you on the security risks?

Secretary SEBELIUS. We discussed security as part of the overall operations on a regular basis with the operations team, but no one, I would say, suggested that the risks outweighed the importance of moving forward, including our independent evaluator, MITRE, who made recommendations to CMS, as is required.

Senator HATCH. Well, I had been suggesting that since April. You stated that you felt strongly that the launch needed to proceed on October 1st for the millions of Americans who did not have health insurance so they could get coverage as soon as possible.

However, how did you balance that need with the risk that those same Americans might then fall victim to identity theft or have their personal information compromised by insufficient privacy and security controls? How did you balance that?

Secretary SEBELIUS. Well, I share your concerns about individual privacy, and I would say the site was developed with the highest standards in mind. It is FISMA-certified—FISMA is the Federal Information Security Management Act of 2002—which is the Federal standard. It meets the National Institute of Standards and Technology standards. And we took very seriously—the information in the hub was specifically designed so that the Federal Government was not storing privacy information; it actually accessed other secure government websites, but we tried to store the minimum amount of information possible.

We do not collect any personal health information, which is typically done by insurance companies—

Senator HATCH. But you do collect Social Security numbers—

Secretary SEBELIUS [continuing]. Today. So we do not have that at all.

Senator HATCH. You do collect Social Security numbers. You collect—

Secretary SEBELIUS. We do not, sir, we—

Senator HATCH [continuing]. Information on—

Secretary SEBELIUS [continuing]. Do not collect them. The hub is a router function that actually identifies a Social Security number, verifies it with the Social Security Administration, but that information is not kept and stored.

Senator HATCH. But do they not have to give their family income and other personal data?

Secretary SEBELIUS. And that is verified with the IRS. It is Homeland Security-verified.

Senator HATCH. But it is also on the hub is what I am saying.

Secretary SEBELIUS. But the hub is just a router.

Senator HATCH. So these identity thieves can—

Secretary SEBELIUS. It is pinging the Homeland Security database, it is pinging the IRS database, and it is pinging the Social Security database. It is not storing unique information.

Senator HATCH. Well, what were the tradeoffs with launching the exchange on October 1st, rather than waiting until a later date? Could other pieces of the marketplace have been delayed rather than launch the marketplace with insufficient privacy and security controls?

Secretary SEBELIUS. Again, Senator, I would say that the standards that have been set out for security controls were met. You mentioned end-to-end testing, and there were features of the system that were loaded very close to launch date, and that is why I think the Administrator chose to authorize a temporary authorization to operate and not a permanent one, because you cannot permanently authorize an authorization until you have the entire system.

We knew we had features in the system which we had chosen not to apply from the outset: the shopping feature, the Spanish website. Again, those need to be tested before the system can be fully authorized.

Senator HATCH. Could you tell the committee how many people have signed up for health care under the current system?

Secretary SEBELIUS. Senator, we will have enrollment numbers out next week. We are still working on particularly the 834s, which is the enrollment piece with insurers, and we want to make sure we give you valid, accurate numbers.

Senator HATCH. My time is up, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Madam Secretary, at community meetings at home, Oregonians tell me to do everything I can to stop what they see as ridiculous, petty bickering here in Washington and help get results by working cooperatively. So in that spirit, as I told you, I am going to pass this morning on the blame game and for a few minutes, for this moment even, let us just say Democrats and Republicans are going to try to find some real common ground on this.

Now, the Affordable Care Act we discuss today focuses on expanding coverage and financial help to those who cannot afford insurance, and more private sector choices for patients. Before the Affordable Care Act, the last health care reform was the expansion of Medicare to provide prescription drugs to America's senior citizens. Known as Medicare Part D, it was enacted during the Bush administration. And like the Affordable Care Act, it zeroed in on the same concerns: expanding coverage, financial assistance to the needy, increased marketplace choices.

Medicare Part D has been a huge success, and anyone who doubts it ought to think about the terrific hearing Chairman Nelson held in the Aging Committee just a few weeks ago where

Democrats and Republicans all made this point. The Medicare prescription drug program has been a godsend to millions of seniors by offering life-saving medicine, and it has cost 30 percent less than the Congressional Budget Office had predicted.

But the Medicare prescription drug program, as you know, did not start out so hot. The reality of the first few months of that prescription drug program was pretty much bedlam. So I went back and looked at the newspapers from that time, and I will just describe a few of the headlines. “Glitches in Drug Plan Upset Seniors,” read one paper. “Medicare Drug Program is a Wasteful Disaster,” read another. “Medicare Blunders Become a Monster,” read a third. These headlines about the Medicare prescription drug program that Democrats and Republicans now, together, say is a success, the headlines about the Medicare prescription drug program are exactly the type of headlines that have been written about the Affordable Care Act in recent weeks.

Now, fortunately, the Medicare prescription drug program got fixed, and it got the chance to get off the ground. If it had been repealed, millions of seniors today would not have access to life-saving drugs. And not a single member of this committee wants that.

So my question to you is what, in your view, Madam Secretary, could Democratic and Republican Senators here on the Finance Committee do to make the latest health reforms a success the way the Medicare prescription drug program has been?

Secretary SEBELIUS. Well, Senator, I think that it is always welcome to have elected officials in their home States give information to constituents about what the law says, what their options are, what their benefits could be, what choices they have, and how to access the process. That would be enormously helpful, particularly to constituents who may not be web-savvy, who may not know about the law, who may not be following this, but whose families need the benefits.

I do feel that there is no excuse for what has been a miserable 5 weeks. I am committed to the fix of the website. On the other hand, I do know that people are using it every day, and the experience is getting better every day.

So, again, encouraging folks to use the website, use the call center, enroll in person at a health center, find a navigator in the neighborhood, is also enormously helpful. And I think working—we would love to work with the committee on the issues that look down the road, not just at the marketplace that we are talking about, but really the impact of having the opportunity to look at delivery system changes.

I know the committee has just come up with a bipartisan proposal around the SGR—a huge issue for Medicare seniors. But looking at those kinds of frameworks that actually encourage higher-value, lower-cost care as we move forward with more Americans insured, I think, is one effort that should have a lot of bipartisan support. The SGR framework did, and, as you know, the Affordable Care Act has a lot of features in it that deal with delivery system changes—how we get a better value for the medical dollars we are spending, how access to preventive care could actually change a health profile for millions of Americans.

So those kinds of opportunities which are finally here thanks to the Affordable Care Act are all one——

The CHAIRMAN. Thank you, Senator, very much.

Senator Stabenow?

Senator STABENOW. Thank you very much, Mr. Chairman. And welcome, Madam Secretary.

Let me just say there is no question this website needs to get fixed. There are no words that can describe the frustration that all of us have.

What I want to focus on is the real demand for affordable insurance that is out there and the response that the public has had, wanting to get on the website, wanting to get information because they need health care, they need health insurance.

So I want to share some stories with you, and then I would, because of the time, just like to move quickly, ask you a few questions, and if you can say “yes,” “no,” or something short, that would be great.

Let me first share with you a story from Michigan that was highlighted in an article in the *LA Times* that talked about a woman named Judith. She is 48 years old, works in a department store, had an insurance plan that cost her \$65 a month. It was affordable. She thought she had insurance. Then she was diagnosed with cancer and found out that her plan had a \$2,000 annual limit for hospital services, which would get her about 1 day in the hospital.

So she delayed her care. Her cancer got worse, and she was in a very difficult, difficult situation.

Madam Secretary, after January 1st, will Judith or any other woman face a cap on their coverage for breast cancer treatment?

Secretary SEBELIUS. No.

Senator STABENOW. After January 1st, will Judith or any other woman be charged more or denied insurance just for being a woman?

Secretary SEBELIUS. No, Senator.

Senator STABENOW. After January 1st, will Judith or any other woman have to fear being rejected for coverage by her insurance company because of her breast cancer?

Secretary SEBELIUS. No, she will not.

Senator STABENOW. These are all good things. Certainly, people in Michigan think so.

This past week, I heard from Greg in Bloomfield Hills, and he wrote me a letter that said, “My wife, Barbara, and I had a policy which covered our son. In the first week of October of this year, we received a notice that our son’s policy was being canceled because it was not compliant with the ACA. It had a high deductible, paid only one doctor visit a year, no preventative care, very limited prescription drug coverage. In fairness, our insurer advised us to go to the health care exchange to obtain a new policy. We had no problem accessing the exchange or navigating through the various policy alternatives with much greater coverage than the old policy.” We certainly want to hear more of that. “Thank you for passing Obamacare.”

After January 1st, will Greg’s son’s insurance policy be guaranteed to cover prescription drugs?

Secretary SEBELIUS. Yes.

Senator STABENOW. After January 1st, will Greg's son's insurance be guaranteed to cover important preventative screenings without out-of-pocket costs for the family?

Secretary SEBELIUS. Yes.

Senator STABENOW. I think these are good things.

Yesterday, I heard from Crystal, a small business owner in Pontiac, MI, who has not been able to afford insurance for 3 years, as a small business owner. She admitted that before the Affordable Care Act, she was one of the people who was using the emergency room and adding to the costs of everybody else and everybody else's insurance when she got sick.

Last month, she went to *Healthcare.gov*, was able to secure health insurance quickly and uninterrupted. In fact, she got a plan for \$163 a month, and she said to me, "It's a payment I can live with, and I can't tell you how happy I am to finally have health insurance, especially at my age."

Madam Secretary, we have heard concerns about small businesses for years that have struggled to afford insurance. Certainly, at every meeting, for years and years, that is the only thing anybody wanted to talk about.

Can you discuss how pooling together small business owners like Crystal in the marketplace is going to continue to help them afford insurance?

Secretary SEBELIUS. Well, Senator, small business owners, under the law, employers with less than 50 full-time employees, have no obligation to provide coverage, but many of them want to. It is a way they recruit and retain their best employees.

They have often been in a market where they pay higher rates and have exorbitant costs if one of their employees gets sick or has a diagnosis. So having an option—and small business owners can shop in or outside the marketplace, but there will be new options for small business owners in the market, with plans specifically for them. And for the employers with fewer than 25 employees and low-income workers, they may actually qualify for a new tax credit to provide that coverage, up to 50 percent of the cost of insurance.

So there are not only more choices, more features, a larger pool, but for some, a significant tax incentive for employer coverage.

Senator STABENOW. Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Grassley?

Senator GRASSLEY. Thank you for joining us, Madam Secretary.

You know of my interest in the False Claims Act that has brought \$30 billion to \$40 billion back into the Federal Treasury and is one of the best tools against fraud. So I start by referring to a letter you sent to Congressman McDermott October 30th.

The letter states that the Department, quote, "does not consider qualified health benefits, other programs related to Federally Facilitated Marketplaces, and other programs under Obamacare, to be Federal health care programs." If that interpretation stands, it would have serious consequences.

Your letter calls into question whether vital enforcement and oversight tools that ban rebates, kickbacks, and bribes would be available to your agency to fight fraud. It weakens the ability to use the False Claims Act.

I do not understand why you are giving insurers within the exchanges a blanket exemption from years of civil and criminal laws and regulations, including anti-kickback and Stark law violations, just to name a few.

This is not about my position on the underlying law, Madam Secretary. You and I disagree on that. However, we can both agree, I hope, that you are moving forward with implementation no matter how badly it goes and how many promises are broken along the way, and right now it is not going very well.

Trying to exempt Obamacare from a host of criminal and civil laws designed to protect taxpayer dollars from fraud just adds insult to injury. These laws were put in place to stop aggressive practices that ripped off taxpayers. You should not be able to just exempt Obamacare from these protections with a stroke of the pen.

So, a few questions. Was this exemption requested by any providers, and, if so, who requested it?

Secretary SEBELIUS. No, sir, not to my knowledge. This was a legal discussion in our department, and, because these are private insurance plans—they are not government programs—the legal interpretation was that the insurance companies offering plans on the marketplace and offering plans off the marketplace should be treated the same.

These are not government insurance programs. They are private plans.

Senator GRASSLEY. Did you have any discussion about this issue with any providers that are offering these plans prior to their decision to join?

Secretary SEBELIUS. No, sir.

Senator GRASSLEY. And finally, would you make the lawyers who review this decision available to my staff so that we can ask follow-up questions to better understand why the decision was made to greatly weaken the ability to use available statutes to protect taxpayers' dollars?

Secretary SEBELIUS. Senator, I would be glad to do that. Again, we have not given up any authority over fraud. Our department continues to have careful monitoring. We can decertify plans from being in the marketplace. We can work with the Attorney General.

The State insurance departments throughout the country are the regulators of these private insurance plans and private companies. They have a very aggressive anti-fraud effort.

It was just the legal determination, since these are private companies—these are not dollars being paid for out of the Medicare Trust Fund or others, these are private companies and private premiums—that they should not be declared to be government health plans.

Senator GRASSLEY. The Medicare Advantage Plan is the same, and so it is covered.

Secretary SEBELIUS. Actually, it is not quite the same, Senator. It is a private insurance plan, but Federal dollars are paid directly out of the Medicare Trust Fund to the Medicare Advantage Plans. This is very different. These are individuals who are paying premiums to a private plan on the marketplace.

Senator GRASSLEY. Mr. Chairman, my next question is so long, can I reserve my time for a second round?

The CHAIRMAN. Yes, you may, absolutely.

Senator CRAPO?

Senator CRAPO. Thank you, Mr. Chairman.

Secretary Sebelius, I have read your testimony and listened to it carefully today, and I appreciate your commitment to making the website work.

I am concerned, though, that a lot of the discussion in your testimony and a lot of the discussion that we are in seems to imply that the problem we are dealing with is that we fouled up on the website. And we have hired a lot of experts, we are going to go get the website fixed, and then everything is going to be great.

As the chairman asked you whether it would not be better to hold off until we can get the website fixed, I want to expand a little beyond that, because I am more concerned, frankly, not that you will get the website fixed or not, but that we will get the law fixed. And as I see it, we are now finding that the concerns that many of us raised before about whether the law was properly laid out and whether the promises made about the law were real, our concerns about that are coming true.

The President said, if you like your plan, you can keep it. And not because the website is not working, but because of the way the law was put together, we now see that, for millions of Americans, at least 3.5 million that we know of today, they are getting their insurance policies canceled—100,000 in Idaho, which is way more percentage-wise than the percentages the President is now talking about.

The President promised, if you like your doctor, you can keep your doctor. Again, millions of Americans are finding out they cannot keep their doctor.

The President promised, we can cut the average family's premium by about \$2,500 a year. And although I read your testimony where you talk about premiums going down, I do not know what datasets you are using, because the data that I am aware of show that the premiums in the individual market are skyrocketing. They are not going down. They are going up, and they are going up faster than they were projected to before the law.

The President promised, if your family makes or earns less than \$250,000 a year, a quarter of a million dollars, you will not see your taxes increased a single dime. I repeat: not one single dime. And yet we have, as we discussed, somewhere between \$800 billion to over \$1 trillion of new taxes that were delayed in their implementation, but are now starting to hit and squarely hit the middle class.

My question to you is, is it not time for a time-out? The law is not working as it was promised. The website is not working, fine. Let us fix it. But the law is not working.

Is it not time for a time-out so that we can go in and start finding out why we are seeing premiums go up, not down; why we are seeing people's policies canceled, not being protected in their health care; why we are seeing the failure of the promised operation of the law to occur?

Secretary SEBELIUS. Well, Senator, I would, respectfully, disagree with your assessment about the law working.

In the last 3½ years, there are millions of Americans who have actually received benefits under the law. There are 7 million young adults who have insurance now who were uninsured because they are now covered on their parents' plan. There are seniors who are experiencing not only additional benefits in their Medicare plan, but, despite all of the accusations that somehow Medicare Advantage would cease to exist, we have a stronger and less expensive program today than we did.

We have a 50-percent discount for seniors in their prescription drugs if they fall into the donut hole. Millions and millions of Americans who have private employer coverage now have no co-pays and no co-insurance for preventive care, everything from cancer screenings to immunizations. Those are all part of the law. And we have the lowest health care cost increases in decades in the private insurance market, in Medicare, in Medicaid. Costs are at an all-time lower rate of insurance than we have had in years.

Senator CRAPO. But, Secretary Sebelius, you can go through those points and, for those datasets that you are talking about, some of those developments have occurred.

But on the flipside, we are seeing millions of Americans lose their health care. Millions and millions more see their health care premiums going up, and the price for some of these fixes that you are talking about is phenomenally higher than we understood or was represented.

Is it not time to go in and take a look at the areas of the law that are simply failing?

Secretary SEBELIUS. Actually, Senator, in the marketplace, the rates have come in about 16 percent lower than what the Congressional Budget Office projected those rates to be.

Senator CRAPO. That is the projection after—that is not lower than actual fact.

Secretary SEBELIUS. I would say that those were the projections of the rate. So the rates are lower, much like we just heard Senator Wyden talk about with the projections around Medicare Part D. The rates came in significantly lower than in the past.

Senator CRAPO. So are you saying that, in the individual market, insurance rates are going down?

Secretary SEBELIUS. I did not say they are going down. I said the rates are lower than was predicted. And for millions of people in the market, they will actually, for the first time ever, have some financial help paying for their health insurance premiums.

The CHAIRMAN. We are going to have to move on here. Thank you very much, Senator.

Senator Nelson?

Senator NELSON. Mr. Chairman, one of the toughest public service jobs that I ever had was the elected insurance commissioner of Florida. And one of the most bedeviling insurance markets was the individual insurance policy, because what would happen is, people would be enticed to come in to cheap health insurance, and then over time, as the group got older and sicker, there was no control on the rates. They would go up, and then they found they had very limited health insurance.

Now, that is what the Affordable Care Act is trying to address, and we are talking about the individual insurance policies, not the

group policies. And, in this particular case, we now have no lifetime limits. We do not have preexisting conditions. And you can each look in your States and find many examples where the so-called cancellation has occurred, but, in fact, these people are going into a policy that is going to give them protections because of the 10 things that are required in the Affordable Care Act individual health insurance policies.

So I would ask my colleagues, as they look at this, please consider, for example, a lady in Florida. She had a policy that was \$54 a month—that sounds great—that is being canceled. But when you got into the internals, as reported by CBS, lo and behold, she did not have much coverage at all, and had she gotten a disease like cancer, she would have had virtually no coverage. She is going to have that coverage under the policies in the individual market that are covered under the ACA.

Now, I want to say one thing about what is going on in the States. Take a State like Kentucky. They did their work, and, in the first month, they have signed up 30,000 people.

Look at my State. It is one of 27 States, basically, I think, because of politics, that decided not to do anything about setup—would not accept money to set up, is not going to expand Medicaid. And look at the difficulty now that the Federal Government has had to set up these exchanges in 27 States. Why could we not have been like Kentucky and be way ahead of the game?

Finally, I would say, obviously, there is no excuse for the website not working.

Madam Secretary, I am one of the ones who said, as, Mr. Chairman, I heard you say, that people have twisted your words when you criticized the fact that the website was not working. And I certainly was one who said it is inexcusable and people ought to be held to account.

So, Madam Secretary, what legal authority do you all have to guarantee that the contractors who are responsible for this thing not working are going to be held to account?

Secretary SEBELIUS. Well, Senator, we have significant contracts with a number of key outside entities. CGI and QSSI are two of them.

We have paid out, I would say, a portion of the money that has been encumbered for the website build. It clearly is not up and running at a sufficient level at this point. And we have new management with QSSI, one of our key contractors, sort of driving part of this fix, and we will make sure that, funding that has been provided delivers on the product that was promised.

It is not there yet, and that is a commitment. We are working with our auditors and our teams to make sure that, as bills come in, they are clearly reviewed and that we have the opportunity to make sure that the product that we need and have committed to is delivered.

Senator NELSON. Mr. Chairman, I will just make a final statement.

As someone who has fought and bled for this and who sincerely thinks that it is going to work in the long run, I want you to hold them to account. I want you to burn their fingers and make them

pay for not being responsible and for not producing a product that all of us could be proud of.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Roberts?

Senator ROBERTS. Madam Secretary, I want to remind everyone again how we got here today.

Over a year ago, staff or members of this committee requested information on the rollout of the exchanges. Instead of details, we only received assurances that everything would go smoothly. In March of this year, we started hearing that people directly involved with the development and implementation of the exchanges were deeply worried about the website's launch. In June, the Government Accountability Office issued a report that should have served as a warning to you, as it highlighted implementation challenges that we now know were never addressed. I want to stress it certainly was a warning to me. By July, it was clear to me that your department was being less than transparent about whether the exchanges would be ready by October 1st.

As a result, I introduced the Exchange Sunset Act of 2013. My bill would have sunset the exchanges and the individual mandate if beneficiaries were unable to enroll starting October 1st, as promised.

In August, the HHS Office of Inspector General identified privacy and security vulnerabilities and determined that, quote, "critical tasks remain to be completed in a short period of time." In early September, your main website contractor, CGI, warned CMS that they were falling behind on their highest priority items. The warning included that they may not have enough time in the schedule for testing and that services were intermittently unavailable. And yet, several days later, the White House announced that the data hub was, quote, "ready for operation."

In mid-September, CMS ordered a contractor to make a significant change to the system to require people to submit their personal information before viewing any plans or associated costs. On September 26th, mere days before the launch, testing showed that a few hundred visitors crashed the site. The very next day, the decision was made to move forward with the launch of *Healthcare.gov*, knowing that there was a high security risk during testing.

In short, Madam Secretary, I believe you were given advice, counsel, and warning from experts inside your agency and out that the health care exchanges were not going to be ready. Furthermore, I believe, to protect the administration, you chose to ignore these warnings and, as a result, you have put our entire health care system and one-sixth of our economy in jeopardy.

People are angry. Millions of Americans are scared. They do not know whether they are going to have coverage in a matter of weeks. They do not know what their coverage will include. They now are getting letters from their insurance companies they do not understand. In fact, more people are losing their insurance than are signing up on the website, and they are being directed to a website that does not even work.

Now, we do not often talk about life and death in the context it deserves, but at this time, it is real and it means the difference between life and death for many Americans who are at a loss for what to do. And we know, Madam Secretary, that fixing the website will not ever fix the uncertainty and the ramifications that result from this law.

So I have to wonder if you have any regrets, any regrets at all, that you failed to heed the warnings, that you ignored the calls from members of Congress, that you proceeded to open the exchanges on October 1st, immediately followed by a taxpayer-funded promotional tour to tell everyone, quote, "It's sort of a great problem to have."

Well, Kansans do not think these are great problems to have. From your hometown of Topeka, Steven wrote, "I am completely disgusted. I have spent the last 2 days trying to get my application through. This would not be a critical issue except the insurance coverage that I currently have is going away because of the new Federal requirements, though we were promised, if you like your current coverage, you can keep it."

Madam Secretary, you yourself know that this law has serious problems. You delayed over half of the mandate deadlines. You did it for employers, for unions, and for small business, but not for the exchanges and not for Steven nor for millions of other Americans who are losing their health care, and their worry and their fear are palpable.

Your main goal should have been to protect Americans, to lessen their risk, and to ensure their safety. But in your zeal to implement this law, not warnings, not advice, not counsel would deter you from implementing the exchanges.

You have said America should hold you accountable, which is why today, Madam Secretary, I repeat my request for you to resign.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman.

Madam Secretary, thank you for joining us this morning.

While the problems we are facing with the marketplace website are substantial, unacceptable—you have self-described it that way—and need to be fixed immediately, I would like to take a second and put things in a historical perspective.

"Social Security Act's Old Age Insurance Plan Facing Hurdles." "Problems Beset Social Security." "Social Security Setup Insane." "Medicare Facing Trouble." "Crisis for Medicare." "New Problems in Medicare Drug Benefit." "The Medicare Drug Mess."

Those were headlines of the 1930s, 1960s, and early in this decade about major programs that have become beloved in terms of the social safety net in this country and health care security.

So, while this is inexcusable, by the same token, it is a challenge that has been faced time and time again when any major program has been unveiled.

Now, I find it amazing that those who seek to ascribe blame are the same folks who have spent every waking hour of the last 4 years working to dismantle, destroy, obstruct, and impede the suc-

cess of the Affordable Care Act. They are concerned not about its failure. They are concerned about its success. And so I hope that what we will focus on is, how do we succeed now?

I want to get a sense—when those of us on the committee worked to put this bill together, I guess we were proceeding on the faulty assumption that States controlled by Republican legislatures or Governors would put a higher premium on their love of State rights and the opportunity for their citizens than their dislike of the President or some ideological or political opposition, which is why we are seeing far better success in those States that have established their own marketplace.

What is the consequence of having so many of the States not pursuing their own marketplace and delegating it to the Federal Government? Did you envision having that many States not open up their own marketplace, and what have been the consequences of the burden of that?

Secretary SEBELIUS. Well, Senator, I would say we really did not know. We knew that 27 States had sued around the constitutionality of the bill. There was an uncertainty what would happen when the Court declared it constitutional, how those States would then react.

Some have chosen a sort of partnership where we still run the bulk of the exchange. Others have refused to participate at all, and I would say that that uncertainty certainly added to the uncertainty of how large the operation would be.

Having said that, we did have deadlines in January of 2013 for States to officially declare whether they would run their own marketplace or not and, by the middle of February, submit a partnership plan. But we have 36 States that are using the Federal hub at this point, and that is, I think, significantly higher than people might have predicted initially at the outset of the plan.

We have robust product offerings in those marketplaces, very competitive. About a fourth of the insurers are brand new, which is very good news to a lot of the people who have been in a monopoly market for a very long time. They have choices, they have competition, and that was part of—

Senator MENENDEZ. Is it not fair to say, though, that it seems that the State-run marketplaces seem to be having greater success than those that have been—at this point, than those that are being run federally?

Secretary SEBELIUS. Well, I would say that the web features of those State markets are certainly running more smoothly. If you think about one set of products and one set of prices in one State, that is less complicated.

But all of the States, as well as the Federal markets, are using the hub. They come into the Federal market to certify security and income and status.

Senator MENENDEZ. Well, let me ask you one last question, because we are hearing from a number of providers, including community health centers—for example, in my State; it did not set up its own exchange—that insurance companies have yet to provide them with networking contracts.

That is a basic function of the marketplace in order to ensure network adequacy. If we are going to say that State insurance reg-

ulators are responsible for certifying the marketplace plans—many of these are actively hostile to the Affordable Care Act.

So how is it possible—how are people supposed to shop for a plan if they do not know that it includes their doctor because the networks are not even yet in place, and will those networks be in place by January 1st?

Secretary SEBELIUS. Actually, there is no plan that was a qualified plan on the market that does not have a network that is actually available and provided and has not undergone the scrutiny of the State insurance department. That was one of the criteria. So every plan in the market has a network, and consumers can access that information as they shop for insurance coverage. But you could not just file—

The CHAIRMAN. We are going to have some follow-up, yes. Thank you, Senator, very much.

Senator Enzi, you are next.

Senator ENZI. Thank you, Mr. Chairman.

Secretary Sebelius, we all know by heart President Obama's promise that if you like the health plan you have, you will be able to keep your health plan, period. Well, as millions of Americans are, unfortunately, finding out, that just is not the case.

Henry Ford said that customers could have his Model T in any color they wanted so long as it was black. Sounds similar to what the President has promised with health care. If you like your current plan, you can keep it, as long as it is the model he chooses.

I offered a proposal 3 years ago to give people the honest choice to keep their plans, but every one of the majority party in the Senate voted against it.

Incidentally, the White House website, as of 4 o'clock yesterday, has a little problem too. It still has the President's promise on there that if you like your health plan, you can keep it.

Twenty-six hundred Wyomingites—we are the least populated State in the Nation—got word Saturday that they could not keep the insurance that they have even if they like it, and the insurance commissioner assures me that it is plans that they like. So I am working on a bill with Senator Ron Johnson and 36 others that would allow Americans to keep their health care if they like it. These insurance cancellation notices are a wake-up call to the American public, even those who initially supported the law.

It is hurting the economy. It is actually making health insurance less affordable. The one-size-fits-all approach that this administration likes to push is hurting our country, and we need more people in Congress who understand this.

My hope is that even my Democratic colleagues are seeing the light. If not, I bet their constituents will hold their feet to the fire and keep them accountable.

My question to you is this. What is the administration doing to help the millions of people who will suffer as a result of the President's broken promise? What can I tell my constituents who have had their insurance coverage canceled and cannot qualify for a subsidy and are facing thousands of dollars in insurance costs? Incidentally, Wyoming's costs are higher than any other State in the Nation, and we only have two providers.

So there has not been an increase in the number of providers. Your answer?

Secretary SEBELIUS. Well, Senator, I think that the President's promise was in the law from the day it was written, and that is the grandfather clause that we wrote as a policy. It basically said that plans that were in effect in March of 2010 that did not change to the detriment of the consumer—even though the insurance company could raise premiums, they could not eliminate benefits or take away items that the consumer liked—that those are in effect and they can stay in effect. And millions of Americans in the individual market are enjoying those plans today and will enjoy them into the future.

They do not have to come into compliance with anything in the law. But if, indeed, the plan is turned over, and this is a market—you heard Senator Nelson, and he and I served together as insurance commissioners—talk about churn in the market and plan turnover. If plans in this market changed over and over again since 2010, then insurers have been on notice since 2010 that they needed to come into compliance with the same exact consumer protections that are in the small group market, in the employer market, in every other part of health insurance.

It just was not available to individuals who were out shopping on their own.

Senator ENZI. I am not worried about the insurers. I am worried about the individuals who lost their policies that they liked. And they are also finding out, not only are they losing their policies, they are losing the doctor whom they like to go to. In some instances, they are losing the hospital that they like to go to.

So there are some changes that have been made there that are causing some problems.

Now, you also mentioned that a number of people are signing up, and I have noticed that in Washington State, there were 35,000 people who signed up for Obamacare, but 87 percent of them are going to receive their coverage through Medicaid. And 26,000 people enrolled in Kentucky, and four out of five of those are going to be in Medicaid. And Maryland reported 85,000 people enrolled, and 96 percent of those are going into Medicaid.

Medicaid has costs for the Federal Government, particularly with some of the increases that were put in this law. Are we going to be able to afford this increase in Medicaid? And it is not bringing in the other customers who are going to be paying the tab to provide the revenue to do this.

Secretary SEBELIUS. Well, Senator, when the Affordable Care Act was passed, it was actually anticipated that 100 percent of the States would expand Medicaid. That was altered by the Supreme Court decision that made Medicaid expansion a voluntary expansion for States.

We now have 30 Governors, Republican and Democratic, around the country who have declared their interest in moving ahead with Medicaid expansion, and that expansion of 100 percent of the States was fully paid for within the Affordable Care Act's 10-year window.

In fact, it is part of the law that was passed in 2010. It was not on the deficit. It was part of the law, unlike the Medicare Part D, which was not paid for when Congress passed it.

The CHAIRMAN. Thank you, Senator.

Senator ENZI. I will submit some more questions in writing, the accountant type questions that would not have general appeal.

Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman.

Mr. Chairman, I am convinced that the fundamentals of the Affordable Care Act are sound. We have seen over the last 3 years the implementation of many provisions of the law in a very orderly way, protecting millions of Americans with better coverage and giving assurances that the discriminatory practices of insurance companies that existed before the Affordable Care Act are being ended.

I think, as my colleagues talk about the actions of private insurance companies today, we must look back before the passage of the Affordable Care Act and see how many people lost coverage, how insurance companies were pulling out of markets, reducing benefits, and increasing premiums. We now have stability in the market, and that is due to the Affordable Care Act.

I also point out, in regard to the exchanges, the number of insurance carriers that are offering plans and the pricing of those plans came in much stronger than we anticipated when we passed the Affordable Care Act. So it is sound.

I share the level of disappointment of every member of this committee as to how the website shopping and enrollment functions have performed since October 1st. As a result of the inability of individuals to shop and enroll on the websites, there are people who are going to be disadvantaged. We have people who have not gotten as far as they want.

We are going to have consumer fatigue, people who will have a more challenging time. We also have a large number of people who have lost their coverage, which was understandable, because, as you have explained, these are individual market policies that were changed since 2010. These are substandard policies. These are individuals who changed their insurance policies frequently. They want and need to enroll through the exchanges by mid-December so that they can get coverage effective January 1st.

So my question to you is, what steps are you taking to deal with these individuals who have attempted, but have not yet been able to enroll—and individuals who need coverage effective January 1st—to make it easier and more convenient for people to be able to shop and enroll? It can be done on the Internet, but it also can be done by paper and by telephone. What steps have you taken to protect those who may have suffered from the delay in getting the website working?

Secretary SEBELIUS. Well, Senator, step number one, two, three, four, five, six, is really getting the site fixed as rapidly as possible. In the meantime, we are deploying additional assets.

So the call center operations have additional individuals now. We have about 12,000 trained call center representatives who not only have an English and Spanish version of scripts, but translators

who can answer questions in up to 150 languages, and they can take a consumer all the way from start to finish, through the entire process, or just help a consumer create an application. Then they can go back to the site and visit it later. So that is very much underway, and we are trying to increase that visibility.

Every community health center in America has outreach- and enrollment-trained workers on the ground throughout the country, and they are very actively working in their neighborhoods and their communities.

Every State has a contract for community groups and well-known medical advocacy groups trained as navigators to walk people through. That can be done in a paper application or on the phone or in person.

Senator CARDIN. I am glad you mentioned paper applications, because you can do a paper application.

Secretary SEBELIUS. Yes, you can, Senator.

Senator CARDIN. And I would just urge you to make that option available for those who feel more comfortable using paper applications.

Secretary SEBELIUS. We always knew that there would be a portion of the population who would never use the web, who are not web-savvy or do not have access or are not comfortable. So we have always had alternate strategies. We are trying to actually enhance those alternate strategies.

Senator CARDIN. Let me mention one other point, and that is the State exchanges. Those that are being operated by the States are having varied results. Some are doing well, some are not.

I urge you to monitor the progress made on the State exchanges, because we want to make sure that assistance is available to those who have been disadvantaged because of the inadequate performance of the online shopping and enrollment. The problems go beyond the Federal exchanges, and those individuals who are in States with their own exchanges must also be protected as you look at ways to compensate for a rollout that is far slower than we anticipated.

Secretary SEBELIUS. Senator, we have regular updates with the State directors. In fact, one is occurring at 4 o'clock this afternoon. So we are not only trying to pay attention to the Federal marketplace with those 36 States, but also keeping in very close touch.

Lessons learned—we would like to deploy them in other areas, figure out what is working and what is not working, and use the full 6 months of open enrollment to really reach out and enroll people who are eager for affordable health care.

The CHAIRMAN. Thank you, Senator, very much.

Senator Cornyn, you are next.

Senator CORNYN. Madam Secretary, in September 2009, the Quinnipiac poll said that 88 percent of Americans were satisfied with their current health insurance plan, which is why the President, no doubt, made the promise that he made.

As you can see, as of yesterday afternoon, the White House website says, if you like your plan, you can keep it and you do not have to change a thing due to the health care law. Well, we know that lying to Congress is a crime, but, unfortunately, lying to the

American people is not. I would just like to ask you a simple true or false question.

Is that statement on the White House website true or is it false?

Secretary SEBELIUS. Sir, I think the statement is that—

Senator CORNYN. Is it true or is it false—

Secretary SEBELIUS [continuing]. You can keep your plan—

Senator CORNYN. Madam Secretary?

Secretary SEBELIUS. The vast majority of Americans who are insured are in the employer market or in public plans or in veterans' plans, and those plans have stayed in place and continue to offer benefits.

The 11 million people who are in the individual market, a majority of those individuals will keep plans that now will have stronger coverage, and others will have to choose—if they have a brand new plan and not a grandfathered plan—have to choose because of a plan that they can no longer get medically underwritten.

Senator CORNYN. My time is limited. So I would just ask that the record note that you have refused to answer my question whether it is true or false.

So let me ask you another question. Is it not true that, in June of 2010, the department that you head estimated that between 40 percent and 67 percent of those buying their insurance on the individual market would lose grandfather status? And is it not also true that, on that same date, your department estimated that 66 percent of the people in small employer plans and 45 percent in large employer plans would lose their grandfather status by 2013. Is that not true?

Secretary SEBELIUS. Senator, that is an inaccurate use of those statistics. What the statistics—

Senator CORNYN. Is it not true?

Secretary SEBELIUS. Senator, could I answer the question?

Senator CORNYN. If you can answer whether it is true or not.

Secretary SEBELIUS. I can tell you what the statistics mean, and then I would like to—

Senator CORNYN. Well, I am asking you whether it is true or not.

Secretary SEBELIUS. I would like to tell you what the statistics mean.

Senator CORNYN. Would you answer my question and then explain what it means?

Senator ROCKEFELLER. She did answer. She said you were inaccurate.

Senator CORNYN. Mr. Chairman, I am asking whether it is true or false. And you are not answering the question, Madam Secretary. So let me ask you another question.

Secretary SEBELIUS. Because that is not what the statistics say. That was a look back at how much churn there is in the marketplace. That was not a projection of what was going to happen in 2014.

Senator CORNYN. Is it not true, according to the Congressional Budget Office, that about 156 million Americans get their health insurance from their employer-sponsored health care plan in 2013, and the Congressional Budget Office has estimated, because of the failure to keep the promise on the White House website, that 78

million Americans will not be able to keep their plans, as promised? Is that not true?

Secretary SEBELIUS. I do not have any idea what that statistic is. I think there are about 170 million who have employer-based coverage, but I do not know that specific CBO estimate, Senator.

Senator CORNYN. Well, I would commend the CBO estimate to you, which is what Congress depends upon. CBO estimates 78 million people will not be able to keep their employer-provided coverage, hence my conclusion that this is a false statement made to the American people that this administration has consistently doubled down on and repeated time and time again.

The only thing I can conclude is that it is impossible to do something in this administration that gets you fired. It is impossible. You can lie to the American people. You can consistently misrepresent the facts. But it is impossible to get fired.

So I want to ask you about the navigators. The President is in Dallas, TX today touting the navigator program, which, as you know, consists of people who are hired to help people navigate the Affordable Care Act.

But I would just like to ask you this question, if you would answer it. Is it not true that there is no Federal requirement for navigators to undergo a criminal background check, even though they will receive sensitive personal information from the individuals they help sign up for the Affordable Care Act?

Secretary SEBELIUS. That is true. States could add an additional background checks and other features, but it is not part of the Federal requirement.

Senator CORNYN. So a convicted felon could be a navigator and could acquire sensitive personal information from an individual unbeknownst to them.

Secretary SEBELIUS. That is possible. We have contracts with the organizations, and they have taken the responsibility to screen their individual navigators and make sure that they are sufficiently trained for the job. There is a self-attestation, but it is possible.

The CHAIRMAN. Thank you, Senator, very much.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman.

Madam Secretary, nice to see you.

I want to start with a letter from Steven, a small business owner in Hudson, one of the most conservative suburbs, an Akron suburb, in our State. He said, "I'm a father and small business owner. I began my business in 2009, decided to quit my day job. It's the best decision I ever made. I'm more successful today than I ever would have imagined. But no company would sell me health insurance. It wasn't that I couldn't afford it, that I didn't want to pay the cost. I couldn't get insurance at any price due to preexisting conditions. Now, thanks to the Affordable Care Act, my family is now insurable."

I get letters like this all the time. I think we all do. They are from all kinds of people from all kinds of walks of life, telling us that this matters to them.

I want to ask you this. Senator Menendez spoke of the difficulty of implementing a huge social insurance program, if you will, the difficulty of implementing Social Security, the difficulty of imple-

menting Medicare. You can go back to—you were a junior or senior in high school, I think, in Senator Portman's hometown, when your father, a member of Congress that fateful year, voted for Medicare. And I suppose he shared stories with you about the opposition in those days.

The leading Republican politicians, like Congressman Dole and Congressman Rumsfeld and Congressman Gerald Ford, voted against it. The John Birch Society, the insurance companies, the AMA, opposed Medicare.

In fact, the rolling out of it was very controversial, especially because Medicare resulted in integrating southern hospitals. And if you think this is controversial, what is happening now, imagine the difficulty a year after civil rights and around the time of voting rights passing that Medicare forced hospitals to integrate. So this whole view that this is so controversial and this is so unprecedented when you roll out a new program—

But the important thing, I think, is 5 years later—5 years later—people looked back on Medicare and thought, what was the big deal, why were people so opposed? This is working for our country.

So tell me, 5 years from now or 45 years from now, 48 years after Medicare now, what are people going to say about the Affordable Care Act in 5 years and in 48 years?

Secretary SEBELIUS. Well, I am hopeful that this will be another significant step forward in assuring that all Americans have access to affordable health coverage, which is not what we can claim today.

We are the only Western country which does not have health care as a basic right, and I think this is a significant improvement for not only uninsured Americans—and they will have access for the first time either to Medicaid expansion or to affordable plans in the marketplace—but also those individuals who have been referred to a number of times in the individual market, the kind of last marketplace, where they do not enjoy the consumer protections that every other person who has health care in their work place enjoys: no preexisting condition limitations, no medical underwriting.

Virtually 100 percent of people in the individual market are medically underwritten. If you are healthy, that is great. If you are not healthy, you are in terrible trouble. And these are folks who want health insurance. They are there because they want health insurance.

So I think this is a significant step forward and one that we will look back on, hopefully, and applaud the day that we finally made the significant step. For 70 years, Republican and Democratic Presidents have been attempting to accomplish this.

Clearly, the opposition is still quite ferocious, and I am just hoping that people understand what their options are, what their benefits could be, and what their opportunities are.

Senator BROWN. Thank you for that. Senator Cardin and I were just talking earlier about how we both opposed the Medicare drug expansion. I cannot speak for the reason he did. I did because it was far too much a giveaway to the insurance and drug interests and did not provide the level that I thought it should for a real prescription drug benefit.

It could have been done in a much better way. But Senator Cardin and I also did something that I know a number of people on our side of the aisle did, and that is held town hall meetings, sent staff out to help people—how can I enroll in this, how can I sign up for the prescription drug benefit? We helped our constituents navigate what was then a labyrinth—sort of an arduous path of, how do you get these prescription drug benefits?

I wish that were happening today, and I guess I would challenge my Republican friends. You know, it is the law, in spite of efforts from the House of Representatives, and I hope, after this—disastrous is maybe the way to say it—rollout has not worked, I hope after this that my colleagues will work in their States to help this work for the American people.

I was handed a note by my staff, and I will just finish with this. Republican House members in Ohio, and there are 12 of them, have gone so far as to tell their constituents who have questions about the Affordable Care Act to call Brown's office because he voted for it and we did not.

I just hope that, as a Nation, as public officials, we do our jobs. We all took an oath. I do not mean to sound like I am lecturing, but I just hope we pull together and make this law work as well as it can in our States and across the country.

The CHAIRMAN. Thank you, Senator. Thank you very much.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

It is the law, but it is a law that the administration has chosen to delay portions of, and I think that is done very indiscriminately.

I think we all agree that the rollout has been a failure of epic proportions. And there were a couple of front-page stories in *Politico* today in which there was a tech expert who was quoted as saying, "This might just be an error, but you cannot pass an undergraduate computer science class by making these mistakes."

We have all talked a lot about that. We hope you get that right. I think eventually that part will be right.

But I am one of the people who believes that this is fundamentally flawed legislation. I mean, all we are seeing is higher rates. We are seeing cancellation notices. We are seeing fewer jobs. And when you pass something that has higher taxes, a guarantee issue, community rating, and all kinds of mandated coverage, I think it is inevitable that you are going to see rates go up, and that is what we are seeing.

But the point is, this was built upon a faulty foundation, predicated upon a bunch of promises made to the American people, which are being broken.

I want to come back to—because I think it is so fundamental to this debate, Madam Secretary—on June 14th of 2010, you held a press conference announcing this grandfather rule, which Senator Enzi referred to, and the rule, you said, will make good on the President's promise that Americans can keep their health plan and doctor they like under the new law.

My question is, did you read the regulation when you released it?

Secretary SEBELIUS. Yes, I did.

Senator THUNE. Well, if you read it, how could you possibly say that this regulation would keep the President's promise when, on page 34553 of the Federal Register, your agency estimates that up to 69 percent of employer-provided plans and up to 67 percent of individual market plans would lose their grandfathered status by 2013?

Secretary SEBELIUS. Senator, what I tried to explain to Senator Cornyn was, those estimates were made by the health economists, who look back. That was the snapshot that had occurred in the individual market year in and year out. Very few people stay for more than a year.

We were doing that as a backwards look, but on notice to insurance companies that you can basically avoid any coming into compliance with the law by keeping these plans in place. That is what, basically, the grandfather clause said. And I can tell you, we got enormous pushback from medical disease groups, from advocacy groups, from health care—

Senator THUNE. But does it not knowingly violate—

Secretary SEBELIUS [continuing]. Allies who said, do not do this, this is terrible.

Senator THUNE. Does it not knowingly violate the President's and your promise that, if you like your health care plan, you can keep your health care plan?

I mean, there was not any caveat on that at the time. It was not like there were asterisks or footnotes on that. It did not say, if you like your health care plan, you can keep it, unless it gets canceled, or unless it gets changed, or unless we do not like it.

It said, if you like your health care plan, you can keep it, period. The President said that over and over and over again. Yet, how can you go out, knowing what you know, and allow the President to continue to say that, and you and other members of the administration to continue to say that?

Secretary SEBELIUS. Again, Senator, that is what the grandfather clause was all about in the first place, and, as I say, it was very controversial, but we felt it was important.

We also, in the grandfather clause—it is written into the larger employer plans, with the same kind of caveat. And I can tell you that, for the vast majority of people who get employer-based health care, are in a public plan or in the VA plan or in Medicare or part of the insurance market, their plans are very much in place.

There is change coming in the individual marketplace, with consumer protections that many people have never enjoyed or experienced.

Senator THUNE. Well, do you think—

Secretary SEBELIUS. They do not have the plan they had in 2013.

Senator THUNE. So people in the individual market, do you think that Americans in that market should be able to keep plans they like even if the government does not approve of them?

Secretary SEBELIUS. If the plan was in place from the time that the law was passed, that is what the grandfather clause said, sir.

Senator THUNE. Look, I think most Americans believe in grace. Most Americans are pretty forgiving people. And so they will tolerate and accept honest mistakes. But to me, this is a dishonest mistake. This is a dishonesty.

You have been misleading the American people, and the President has, over and over and over again. And I would much rather you just come out and say, “Yeah, we were wrong. Yeah, we didn’t tell the truth.” The Pinocchio thing, you got four Pinocchios on that statement.

It just strikes me that it would be a lot—I think people would be accepting of it. Take it off the White House website. It is not a true statement. It never was a true statement. And it is one of the things that, when people were sold this, it was based upon.

I think it is a tragedy that the American people bought into this and that you all knew full well it was not going to be the case.

The CHAIRMAN. Thank you, Senator. Thank you very much.

Senator Isakson?

Senator ISAKSON. Thank you, Mr. Chairman.

Thank you, Secretary Sebelius, for being here today. We appreciate your testimony.

You testified, I think, in your opening statement that QSSI had been hired to do the end-to-end organization and coordination of the web and the hub; is that correct? The website and the hub?

Secretary SEBELIUS. They have taken on a new role in the last couple of weeks of organizing the fixes that are going in. They did—Senator, they were the contractor for the hub.

Senator ISAKSON. Are you aware that in June of this year, the Inspector General issued a report finding QSSI guilty of violating CMS requirements on security that exposed 6 million Medicare beneficiaries’ private information?

Secretary SEBELIUS. I am aware of that, sir. My understanding is, they basically inherited a contract from another contractor. They did not have, initially, the various provisions in place. They immediately fixed it in the transition, and they did self-report that to us.

Senator ISAKSON. And I understand they have a cost-plus contract now to do what they are doing. Is there a provision in that contract for them to correct that and make sure it does not happen again?

Secretary SEBELIUS. That was corrected immediately, and, absolutely, there is a provision to make sure that they comply with all the CMS requirements.

Senator ISAKSON. This whole subject of navigators and information security is going to be kind of the vein of my questions. I had sent a letter, along with some other members of the committee, on the 20th of June, asking for the requirements you were putting in to protect secure information.

I have not received an answer yet. I understand you have been very busy. I respect that. So I am going to use my time now to ask a couple of key questions.

What are you doing to ensure that the navigators protect the private information of American citizens they are exposed to?

Secretary SEBELIUS. Sir, the navigators must go through a minimum of 20 hours of training. A significant portion focuses on privacy and security issues.

As you know, in this new law, there is no personal health information ever collected or needed. So they do not have access to that, unlike an insurance agent today in this market, who collects financial and personal—

Senator ISAKSON. Can I interrupt right there?

Secretary SEBELIUS. Yes.

Senator ISAKSON. Excuse me for interrupting, but I want to be sure to get to the—under section 6103 of the IRS Code, there are a number of prohibitions for personal information being used. And to estimate the subsidy somebody is going to get under the Obamacare law, you would have to know their income on their tax return previously.

Are the navigators going to be able to use that information in order to make that estimate?

Secretary SEBELIUS. If a consumer chooses, yes, to share that information, they can give the consumer the information about what they would qualify for.

Senator ISAKSON. Then I want to get to this point. The law prohibits insurance agents from being navigators unless they quit their job and become a navigator fully. It also has a medical loss ratio prohibition that basically allows insurance agents not to be paid a commission for selling health care. The navigators were put in to be the connection to the American people to the Obamacare law.

In the State of Georgia, my State has been so concerned about the risk on information that they have made it a requirement that every navigator have a criminal background check. In reference to a question that was asked by somebody previously, do you not think there should be a similar requirement nationwide by your department to see to it that no navigator gets private information unless they have had a background check?

Secretary SEBELIUS. Well, sir, first of all, there are probably 45,000 agents and brokers who have been trained on the Affordable Care Act and are very much part of the process of reaching out to individuals.

Secondly, we did write the requirements for the navigators that very much mirror what many States have in place for licensing insurance agents, and then added a provision that States could, indeed, add additional requirements. Some have chosen to and some have not.

Senator ISAKSON. Would you object to a statute that would require them to have background checks?

Secretary SEBELIUS. At this point, I think if that is the will of Congress, we would certainly take a look at that.

Senator ISAKSON. I do not have enough time for my last point, so I want to shift over to one other thing.

My State is known for the capital city of Atlanta and probably the vacation city of Savannah, with the port of Savannah, but we are also a very rural State, an agrarian State. And in our State, in a recent article in the *New York Times*, which I will quote, "The rates in rural Georgia, particularly southeast Georgia, are going up astronomically and disproportionately to rate increases in other parts of the State."

Is rural America getting hit disproportionately hard because of the effects of the Affordable Care Act on its premium rates?

Secretary SEBELIUS. Senator, I was the Governor of a very rural State, and I can tell you that rural America has always paid a higher price for health care than urban America. The competition

is less. Often, it is a monopoly market, and I do not think that that has changed enough yet with the Affordable Care Act. But I think new competition in most markets in the country will begin to change that, particularly in this individual market where often people had no choice and no competition.

Senator ISAKSON. I know my time is up. So I will yield back on that and ask a follow-up question later. Thank you for your testimony.

The CHAIRMAN. Thank you, Senator.

Senator PORTMAN?

Senator PORTMAN. Madam Secretary, thank you for being here today to answer some of these critical questions.

Mr. Chairman, I noticed in your opening remarks you expressed frustration about the fact that administration officials are now saying, as you said, they did not see the problems coming. And I share that frustration. There were plenty of warnings.

One, Madam Secretary, was a letter that I sent you back in August. This is a letter I sent to you and Director Tavenner, and I sent it because I was hearing a lot from Ohio about problems with enrollment, and particularly problems from Ohio because they did not believe that they were getting the answers they needed from you.

So I asked a bunch of questions. I relayed the concern that Ohio did not think there was even the minimal amount of coordination. I requested specifically who in your agency is in charge, who is the liaison with Ohio. I also expressed my concern about what I knew about the IT concerns, information technology problems, that were already, as the chairman has said, pretty obvious, wondering whether those could be solved by October 1st.

I asked whether you had tested the technology; specifically, whether the systems were going to work and what were the results of that testing. I said I was concerned that there would be a lot of confusion and disarray for Ohioans. Unfortunately, there has been.

So I did not receive a response to the letter, and that August letter still remains unanswered. So I want to ask you today.

Who is in charge? Who at HHS is in charge of the Federal exchange in Ohio? Whom can I direct my constituents to as they have concerns and questions? Because I am trying to help.

Secretary SEBELIUS. Well, I would say, ultimately, Administrator Tavenner oversees the agency.

Senator PORTMAN. So there is no one for Ohio.

Secretary SEBELIUS. Do we have an individual who is—

Senator PORTMAN. Who is accountable to the State of Ohio, to the Federal exchange in Ohio.

Secretary SEBELIUS. We do not have an individual assigned per State, no, sir.

Senator PORTMAN. As you try to fix these sites—you talked earlier about how you think you should not take down the site, which was a suggestion by the chairman and others. You said, instead, better to do routine upgrades while it is happening.

Again, my question is, are you testing the site? Are you testing the upgrades that you are using?

Secretary SEBELIUS. We are testing on a regular basis. And I can tell you—

Senator PORTMAN. Are you going to provide the results of that testing?

Secretary SEBELIUS. To you on a—I do not know what you are asking for.

Senator PORTMAN. To the American people.

Secretary SEBELIUS. Yes.

Senator PORTMAN. To the American people, as you did not with regard to the lack of transparency in setting up the site.

Secretary SEBELIUS. Sir, testing is going on every day on every piece of equipment that is being installed, on every bit of coding that is being run, as we did with every piece of equipment that became part of the site. It was tested not only by the company and the contractor as it was presented to CMS, but there was a CMS test that was performed, and then an independent verification test.

So every piece of—

Senator PORTMAN. Really? So all these problems—

Secretary SEBELIUS [continuing]. The puzzle was tested.

Senator PORTMAN [continuing]. That we are all experiencing and talking about, those were a surprise to you, because there was testing?

Let me just continue, because I have a short period of time here.

I hear a lot of stories, as you can imagine, from constituents. A guy calls in and says, “I tried to get on for 2 weeks, I finally get on, and I find out my premium is double.”

A woman calls in who is having a tough time making ends meet. She has a kid in college. She cannot get through, makes a telephone call, calls me 2 weeks later and says, “I still have not heard back from them.”

So those stories are out there. We are told 12 million people nationally are going to lose the coverage they have, and, again, we have talked a lot about the promises that were made on that.

How many Ohioans have had their insurance plan canceled? Do we know?

Secretary SEBELIUS. Sir, that is proprietary insurance information. I do not know.

Senator PORTMAN. So other States have provided that information. Will we know how many Ohioans have had their—

Secretary SEBELIUS. Sir, again, the Federal Government—these are private plans. Ohio companies could give you that information, but that is not information that we have at the Department of Health and Human Services.

These are private insurance companies notifying their customers.

Senator PORTMAN. So we will not know how many people have—

Secretary SEBELIUS. Well, I think you could ask the Ohio insurance companies. That would be a great way to get the answer. We do not collect that information.

Senator PORTMAN. Well, the Ohio insurance companies are canceling plans because the legislation that you are implementing does not permit these plans because they do not meet your mandates.

So it would be helpful, I think, for you to know how many of these plans are being canceled and whether the promise is being kept.

Secretary SEBELIUS. If a customer is in a grandfathered plan, they have not received a notice. If the plan has been upgraded with consumer protections, they have not received a notice. So I really do not—

Senator PORTMAN. You do not care about that data or are not interested in it?

Secretary SEBELIUS. I care about the data, sir, but you asked if I could give you that answer.

Senator PORTMAN. Yes.

Secretary SEBELIUS. I cannot tell you for Ohio.

Senator PORTMAN. Let me ask you a final question, and it is about covering the uninsured. We have talked about the promises on, you can keep the coverage, the costs being less rather than more. We have not talked about coverage.

Is it true that, after all this sound and fury and all this bureaucracy and 19 new taxes and over \$1 trillion of new spending and so on, that still 30 million Americans 10 years from now, after full implementation of this, will not have health care insurance? Is that accurate?

Secretary SEBELIUS. I hope that is not the case.

Senator PORTMAN. You hope it is not, but do you believe it is accurate? That is what the Congressional Budget Office tells us.

Secretary SEBELIUS. I understand, and, frankly, I have no idea what their premise is. I think that that is unlikely to be true if the program can be fully realized, and that is my—

Senator PORTMAN. Do you have a number on that, how many people will remain uninsured?

Secretary Sebelius. No, I do not, sir.

Senator PORTMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Toomey?

Senator TOOMEY. Thank you, Mr. Chairman.

Thank you, Secretary Sebelius. As concerned as I am about the huge problems with the website, I am more concerned with some of the underlying, fundamental design problems with this legislation that are starting to manifest themselves.

I want to share with you just a few short e-mails from the hundreds and probably, actually, thousands and thousands of e-mails that I have received from Pennsylvanians conveying some of the concern, and, in particular, how the false promises are affecting real people—in this case, my constituents.

I got an e-mail on October 11th from a dad from Bucks County, PA, and I am going to quote this. He said, "I received notice last week that my health care will more than triple. Currently, I am paying \$265 a month for me and my two young sons. On January 1, 2014, my monthly premium will be \$836 a month." He said, "The President promised you can keep your plan and families will save \$2,500 per year. I can keep my plan. I just can't afford it. I do qualify for subsidies, 80 bucks a month."

Well, there was a promise that families were going to save money with this; clearly, that is not the case for this family from

Bucks County. There is another promise which has been alluded to several times, which we all know famously. The President and others have said, if you like your health insurance, you can keep your health insurance.

A woman from Lancaster County sent me an e-mail, and it is short. I will quote it. She says, "I am a 2-time breast cancer survivor, and I am facing the loss of insurance as of March 1, 2014. President Obama said that if we liked our insurance, we would be able to keep it. That was, obviously, untrue."

A third promise that we repeatedly heard was that, if you like your doctor, you can keep your doctor.

I got an e-mail on October 7th from a woman from Westmoreland County, and I will quote. She said, "I've been self-employed for 13 years and have never been without health insurance. Three years ago, I was diagnosed with multiple sclerosis. Having an expensive preexisting condition was not a problem for me, as I had never let my insurance lapse. My medication costs without insurance would be \$4,000 per month. I received notice several weeks ago that they were now going to cancel my plan and were doing so as of January 1st, and I had to sign up for new coverage through the health insurance exchange. If my coverage is not in place before January 1st, I'll have to go without my medications. This may cause permanent disability, blindness, inability to walk, speech problems. I'm not disabled now nor am I on Social Security Disability. Any plan I find that would cover me channels me right back to signing up through the exchange. I'm a small business owner and a productive member of society. I own my own house. Now, I'm in trouble."

We called this woman and we discussed this. It turned out there were two options available to her through the exchange. One option would allow her to continue to see the doctors that had been treating her. The other option would cover the medication she needed. Neither option would cover both.

These anecdotes, I think—well, it is clear to me: they have been repeated many, many times, I think millions of times across the country, and it is a huge problem.

So I guess my question for you is, I understand that this administration is never going to want to repeal this bill. I get that. I understand that you have delayed whole sections of it, but do not seem to want to delay the individual mandate, for instance.

My question is, are there any changes you want to recommend that we could make to this bill so that the promises that were made by the President, by yourself, by others for these people, promises which clearly are not being kept, could actually, in fact, be kept? Are there any that you would be willing to recommend to us?

Secretary SEBELIUS. Well, Senator, I would be happy to work with members of Congress who want to achieve the goals of the bill, which are to provide, for the first time, affordable health coverage for millions of people who do not have it.

And an additional goal of the bill, I would say, is to reinvent the marketplace—the last remaining market where people have been denied coverage because about a quarter of the people who seek insurance cannot get it at all, medically underwritten; where people are denied because of preexisting conditions—so they have an op-

portunity to move forward. And if there are some frameworks that you have in mind—what I really want to do is get the program up and running and get information to people about how they can take advantage of the program.

Senator TOOMEY. The program as it is designed, the bill as it is designed, does not honor these promises.

Let me ask this. The grandfathering clause, we all know, has so many exceptions that many plans are simply not grandfathered. Are you willing to reexamine the exceptions to the grandfathering clause so that more plans could be actually grandfathered?

Secretary SEBELIUS. Well, I do not think grandfathering prospectively can work very well since companies are now in the market with an array of new plans.

Many have actually added consumer protections in the last 3½ years. As you said, the regulation came out shortly after the bill was written. It provided a framework. We have been working with insurers as they look to what plans they would put in the new marketplace, what plans they would keep in place, and the grandfather clause has been part of that ongoing discussion.

The CHAIRMAN. Thank you, Senator. I think we are going to have to move on here. Thank you very much.

Next, Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman.

Secretary Sebelius, I know you have probably seen lots of headlines. I do not know if you have seen this headline: “Thousands Face Delay in Health Care Enrollment.” Over 100,000 uninsured workers will be unable to sign up for subsidized health coverage as of October 1st.

The reason why I am asking you about that particular headline is because it is from the *Boston Globe*, August 3, 2006. And in that case, we do know the rest of the story. The rest of the story is that the Governor of Massachusetts, Deval Patrick, estimated that only 123 consumers signed up in the first month, but eventually tens of thousands did, and now, today, the State has nearly universal coverage.

They went from one in four people being uninsured to one in 10. So we know what the results were, and so, to me, it is a reminder of what our goal was, which was to address the notion that double-digit increases in insurance rates were preventing people from getting insurance coverage.

So to me, the issues of the website and software, since it is part of a background I have had before, to me, it is about writing code and getting things tested, and it is very, very frustrating, for sure. In my mind, it nowhere resembles something like the blowout preventers failing and oil gushing into the Gulf and us struggling for months and months and months to get a scientific way to clean up that resource.

In this case, it is about just getting the code right and making it work and making it function. In that case, Governor Romney asked for and got a 3-month delay. I am not necessarily asking you to comment on that. I know the chairman asked you to comment on that. But I think there is no shame in pushing out a date based on technology. That is my opinion.

I want to note that Washington State's own experience has been, obviously, more positive. One of the issues that was cited in our local press was this issue of not having people have to sign up to enter the site to get data—as they called it, the Amazon model. And I would like to get your comments about that.

Then I want to get your comments too about this issue of this individual market and cancelations. I mean, one 2004 report said that in the individual market, only 17 percent of people keep their plans on an annual basis.

So obviously, there is a huge amount of churn that goes on in that individual market, and maybe we do not have a number or an answer today, but it would be great to get that data, and, if we have to get it from insurers, we should have a number about what that annual churn rate has been for the last decade, because my sense is that we are probably following that pretty closely today.

So some people are citing what has been a normal churn in the individual market and trying to cite it as the end-all-be-all problem with this, and I think we need to have a better understanding.

So if you have any way to shed light on either of those two issues—

Secretary SEBELIUS. Well, Senator, I would say, with the discussion of the individual market, the data, again, that continues to be cited as our projection of what would happen with the Affordable Care Act is actually a look back at the market.

Somewhere between 40 percent and 60 percent of people turn over on a regular basis. Individual market contracts for insurance are 1 year. So it is not unusual to not have the same policy or the same practice a year later. They are not a continuous work benefit.

The individuals who are in the market want to get insurance. They do not have workplace insurance, they are not Medicare-eligible, they are not a veteran. They want insurance and often struggle with, not only price increases at about 16 percent a year, on average, but everybody being medically underwritten, so that any illness or disease could block you from the market in the first place or certainly put you in a pool that could skyrocket and lock you out.

The protections that the Affordable Care Act added to the individual market, the last market without consumer protections, are the very ones that every worker in a small group plan or at a work site enjoys. You cannot be locked out because of a preexisting condition. You must be offered the policy.

You actually are in a risk pool. So your own disease profile does not determine your rates. That is really what is happening with that market. But more than 50 percent of the people are not in their policies for a year. A third are there for only 6 months. It is a very volatile, very expensive, very unprotected marketplace for way too many folks.

The CHAIRMAN. Thank you, Senator.

Senator Rockefeller?

Senator ROCKEFELLER. Madam Secretary, I have watched you today, and I have watched you being eviscerated over in the House. Calls for your resignation, not your head, but your resignation, have emanated from this distinguished panel. And it all makes me want to just say some things.

Number one, I attach some importance to the fact that this bill—which was crafted, a lot of it, in the Finance Committee, a lot of it out, but all open and in public—when it came to the floor, there was not one single Republican who voted for the plan. This was 2 years ago, maybe a little bit more.

I am trying to ask myself, how could that be possible? Senator Isakson was asking about rural Georgia as I would ask about rural West Virginia. And last Saturday, I was at a rural health center in a very isolated part of West Virginia, and it just casually occurred to me that there is about \$10 billion in the bill to create about 1,000 new rural health centers all across America.

Does anybody know that? I do not think they do in West Virginia, and I do not think they do generally. And I am stunned by the prospect of, let us say, 100 million people being uninsured or underinsured because the President makes a couple of statements that perhaps he should not have made, and then that becomes the whole argument, all the letters, you know, I was promised this and I was promised that.

And I am trying to think of all the benefits that come from this. As the chairman knows, I worked very, very closely with him and others on this bill in the Finance Committee to produce it, and I think it is a magnificent work.

My people in West Virginia do not necessarily share that view right now, because I think they have the problem that so many others have, that they simply do not know what is in the bill because of the absolutely maniacal, really admirable but maniacal Republican attack machine, including all the television—I mean, this has to be the worst thing that ever happened to America.

Then I looked at the bill and I said, you know, as you said, we are the only country that does not do something like this, and we have done it very well, and people are going to get insurance, and the underinsured are going to get insurance. Actually, it is only, I think, 80 percent of consumers who change their plans every 2 years. You actually indicated it might be a little bit more than that.

The Republicans were talking about provider shock, saying people will not be able to keep their doctors, an argument which, in many cases, is almost comical and is so farfetched, when you consider that the Affordable Care Act is designed to help people who did not have health insurance and, therefore, almost by definition, did not have any regular primary care physician.

But taking every single possible dark attack, taking the President's two statements, taking the website—which is frustrating to all of us, but if there is anything that can be worked out, it certainly would be the website. It is a technology matter, and that will happen.

I am not for delaying unless they cannot fix it in time, in which case, then I think maybe a penalty or something should be lifted. But I am incredibly proud of the bill, and I am incredibly proud of you and Marilyn Tavenner going before committees and getting viscerated, but standing your ground and knowing exactly what you have done far more than most of us and, certainly, far more than most of those who are viciously making a political attack.

That has risen in the last 5 years, along with the Tea Party and the Koch Brothers and all the rest of it. And you can really sour people with multiple television ads. It is not that hard to do to scare people, sour people, give people a chance to say, I want your resignation, hand it in today. Those things are so totally unrelated to the tragedy of underinsured or uninsured Americans, and this bill sets out to successfully, over a period of years, actually solve their problems.

People never talk about tax credits. Businesses, little, small businesses—people are saying that they are desperate about it, and the fact of the matter is that they get 35 percent of their premium paid by tax credit in the first year, and after that I think it is 50 percent of the premium on a permanent basis. You never hear that. You never hear that.

So this is not so much a question, but a statement of sadness about the ability of the upper body, the so-called cooling body with the cup and the saucer and that sort of routine, that we can be so maniacally political that we just seek to destroy and forget the agony that people are going through, which this bill will cure.

The CHAIRMAN. Thank you, Senator, very much.

Senator Carper?

Senator CARPER. Thank you, Mr. Chairman.

Madam Secretary, welcome. Thank you for joining us today. Other of my colleagues have shared with us headlines that they have noticed recently or in the past as they relate to implementing health care changes.

I just want to add to that. I asked my staff to dig up some headlines, as well, and they did. They came up with—one was “Early F,” as in failure. Another is, “Not Ready for Prime Time.” A third headline was, “Confusion Reigns.” A fourth headline was, “Doctors and Pharmacists Say Some Will Die.” And, as you might guess, those were not headlines from this month or last month. Those were headlines from 6 or 7 years ago when we were implementing Medicare Part D, which I voted for. I was one of 11 Democrats who voted for it. And that was a perfect “no.” We had problems. It had a huge donut hole.

A lot of people fell into it. It means that, after they bought roughly \$3,000 worth of pharmaceuticals in a year, for the next \$3,000 or so, they did not get any help from Medicare. And a lot of people stopped taking their medicines, got sick, got sicker, went to the hospital, cost us a lot of money.

With the Affordable Care Act, we actually went back and fixed the problem, and the fix was paid for by the pharmaceutical industry. We fixed a problem that was created by the original George W. Bush proposal, which I supported.

We are hearing a lot of lament about folks, understandably, who—there are a million people who apparently are not going to be able to continue with their insurance policy. Maybe it is a substandard policy. I will just say, as we try to work and help those folks, let us keep this in mind: a lot of people in this country, too many, hundreds of thousands of people, they call my office and they call all our offices, they have policies that are not worth the paper they are written on, and we need to be concerned about those.

We need to be concerned about the—I do not know—2 or 3 or 4 million young people who today would not have any health insurance because they have aged out. They are 22, they are 23, they are 24, they are 25, and today they have coverage, and I would have us keep them in mind as well. I would have us keep in mind the millions of people over the years who have actually lost coverage. They had coverage, but they lost it because of a preexisting condition. They lost it at a time when they needed it most of all.

And, as we work to try to address the concerns of a couple million people, sadly, who are not going to be able to keep the policies that they want and are facing large increases in premiums, that is a problem, and we need to try to help them and try to fix that. But at the same time, let us put this in perspective.

The other thing we need to put in perspective is this. Over in Japan, they spend half as much for health care as we do. They spend 8 percent of GDP. We spend 18 percent. They get better results. They cover everybody. Last night, when people went to bed in this country, 40 million people went to bed without any health care coverage at all, and we are trying to do something about it.

I lament the fact that we had—in this committee, in the end, the Republicans were unable to work with us. It was sad. God knows Chairman Baucus tried hard enough. We had three Republicans in that scrum that lasted forever, trying to get to “yes.”

But in the end, the legislation, the law that was signed by the President, it actually has a couple of good ideas that are Republican ideas. So some good stuff from the Republicans came in, found its way into the law in the end. And one of those is the idea of large purchasing pools. We call them the exchanges. And that is not necessarily a Democratic idea. I think it was a Republican response, if I am not mistaken, to Hillarycare. It was the Republican alternative. We have taken an idea and tried to actually incorporate it and make it work, and it is a good idea.

The idea of the individual mandate, that is—as I recall, that is, I think, a Heritage Foundation idea that Governor Romney embraced and is part of the law in Massachusetts.

Let me just ask, Madam Secretary, kind of looking forward, we have had, I think, roughly 10 hearings, congressional hearings, just before implementation of the law and since the implementation of the law on October 1st.

I think when we were doing this 6 or 7 years ago, I think we had two hearings. I think maybe the first one was 4 months after the program was implemented, and we decided back then not just to harangue and harass people who were trying to implement the program. We said, let them do it and then we will bring them in for a hearing sort of after the fact and say, what went wrong and what went right? That is what we need to do here.

Here is my question. What can you report to us today on the progress with repairing the Federal exchange? What improvements have Americans seen within the last month? What can we see in the next several weeks?

Secretary SEBELIUS. Well, Senator, I think I am the first to admit that the rollout has been excruciatingly awful for way too many people. A lot of people could not get into the site in the first place, and then, when they were able to access the site, screens

would go down all the time, and they could not get from place to place.

I would say that those are the two primary areas of focus, and we are in a continuous improvement era where, on a very regular basis, with a very rigorous schedule of improvements, we are adding hardware and software to fix the functionality and get people from place to place, to increase the speed, and to make sure we are able to handle the volume of people who clearly want to use and access the site on a regular basis.

So there have been significant improvements. We are not satisfied at all with where we are now. We are committed to an end-of-November experience that is significantly better on volume and speed and reliance and making sure we get to people. And we have a very specific plan to go back and re-invite people back to the site who started at one point along the way and may have been so frustrated that they gave up.

We do not want to do that until we are sure that their experience will be significantly better than it was the first time. We know that a lot of young folks have little patience with any technology that does not work instantaneously. So for that audience it is particularly important to get a very highly functional site up and running, and that is exactly what we are doing.

The CHAIRMAN. Thank you, Senator, very much. I appreciate it.

Now, I will turn to the most patient member of this committee, Senator Burr.

Senator BURR. Thank you, Mr. Chairman.

Secretary Sebelius, thank you for being here.

Yesterday, Administrator Tavenner testified on the security testing for *Healthcare.gov*, which was broken down into testing for the hub and for the Federally Facilitated Marketplace system.

She testified that there had been no end-to-end testing on the Federally Facilitated Marketplace. In fact, she approved a September 27th memo to move forward with issuing the authority to operate. The memo specifically noted this, and I would like to quote it. "From a security perspective, the aspects of the system that were not tested due to the ongoing development exposed a level of uncertainty that can be deemed as high risk for the Federally Facilitated Marketplace system."

Yes or no? Were you aware of that memo?

Secretary SEBELIUS. I was made aware of it recently. I did not know that the memo existed in September.

Senator BURR. How many times did you and Administrator Tavenner talk about the security aspects and specifically this decision to move forward with the authority to operate?

Secretary SEBELIUS. We did not discuss the authority to operate.

Senator BURR. Did you at any point notify the White House of the security concerns that existed about the exchange?

Secretary SEBELIUS. I would say that there were conversations, Senator, about risks in terms of getting a new system—

Senator BURR. Did the White House know that there had been—

Secretary SEBELIUS [continuing]. Up and running, but I was not aware of this, and I did not have these discussions with the White House, because I was not aware of them.

Senator BURR. Did the White House know that there had been no end-to-end testing of the security aspects of the exchange?

Secretary SEBELIUS. I think the White House was aware of the operational issues involving end-to-end testing, but I do not know the specifics of—again, I did not have discussions about this authority-to-operate issue with the White House.

Senator BURR. You testified last week in the House that it was the law that made you stand up the exchange on October 1st. In fact, the statute, as I read it, requires enrollment to start. It does not require the exchange to stand up.

Were you given different legal advice within HHS?

Secretary SEBELIUS. Senator, what the law says is that benefits started on January 1st. The law also said that the Secretary shall designate by regulation a date of open enrollment and that that regulation needed to be promulgated by, I think it was, June of 2013.

Senator BURR. Correct. But that did not require you to stand up the website. It required you to open enrollment.

Secretary SEBELIUS. Well, open, yes. And a significant portion of open enrollment was—

Senator BURR. Well, let me ask you. If Administrator Tavenner had not done the authority to operate, if she had not signed it, the exchange would not have stood up on October 1st, would it?

Secretary SEBELIUS. That is correct. But a short-term, temporary authority to operate was done specifically because she had advice from her senior IT and operations team, as well as the contractors.

Senator BURR. So it was not the statute that made the website stand up on October 1st, was it?

Secretary SEBELIUS. Open enrollment began, and a significant part of open enrollment was on the website.

Senator BURR. Administrator Tavenner testified yesterday that the estimated target enrollment number for the end of November was approximately 800,000. And I know that your plans are to release next week that update through last month.

When you release that, do we have your assurance that you will break that down so that you will show whether individuals chose Medicare or private plans, bronze, silver, platinum levels, and a State-by-State breakdown?

Secretary SEBELIUS. I can tell you, Senator, that we will be able to delineate between—my understanding is, what we are still trying to determine is, how many metrics we can give.

We certainly will have a State breakdown. We certainly will have a differentiation between private coverage and Medicaid coverage. We intend to give you as much information as we can validate.

I do not know that we can delineate the level of the plan that—

Senator BURR. And what is the October through the end of December target enrollment?

Secretary SEBELIUS. Senator, there are all kinds of different target enrollments. I think there was a memo internally that called for about a million people to be enrolled through December, but we are updating those targets. I can tell you our early enrollment numbers are going to be very low.

Senator BURR. In an effort to set the record straight, Mr. Chairman, the Secretary has highlighted, as have others, that premiums seem to be lower than CBO projected.

When CBO made their projections on premiums, CBO made some assumptions, because health care cost is directly linked to GDP growth. And the assumption that CBO made was that we would have GDP growth in 2011 of 3.5 percent, in 2012 and 2013 of 4.7 percent. The reality is that GDP growth was 1.8 percent in 2011. It was 2.2 percent in 2012, and it looks to be under 2 percent in 2013.

So I think it is actually hugely disappointing that, in fact, premiums have now gone up so far, because we have had relatively anemic growth in the United States. But there were incredible assumptions that were made for GDP growth by the CBO that went into their estimates of insurance premium costs.

Madam Secretary, I thank you.

Secretary SEBELIUS. Well, Senator, I would just comment that, in terms of the underlying health cost growth, the private insurance market, the public insurance plans, the first year or two after the President signed the Affordable Care Act, there was a lot of assumption that the very slow rate of cost increase was due principally to the recession.

Most health economists have now concluded that there are significant cost restrainers that were part of the Affordable Care Act that actually are having a very positive impact on our health care spending, on Medicare spending, which has grown at the slowest rate in 50 years. Medicaid spending nationally went down last year overall, and private health insurance rates, again, since the Affordable Care Act was passed, have been at the slowest cost increase that has been seen in decades.

So there is now a conclusion that some of the provisions written into the bill about delivery system changes, payment changes, different ways to measure quality outcomes, some of the preventive care issues, have produced lower costs.

Senator BURR. I am sure all of these were included in the Manhattan Institute report when they completed an analysis of 49 States and found that, on average, premiums in the individual market increased by 41 percent under Obamacare. And in my State of North Carolina, the Manhattan Institute estimates that the average increase was 136 percent under the Affordable Care Act.

The CHAIRMAN. Thank you.

Senator BURR. I thank the chair for his leniency.

The CHAIRMAN. Thank you, Senator.

Thank you, Madam Secretary. I think a couple of Senators would like a couple more questions.

Senator Hatch?

Senator HATCH. Well, I will not keep you very long, Madam Secretary.

Did I misconstrue that you said that you felt there would not be a lot of people signing up between now and the beginning of the next year?

Secretary SEBELIUS. No, sir. I said that the enrollment numbers, which we will release next week—which will be for the first month

of enrollment—are likely to be quite low given the struggles that people have had getting access to the site and getting information.

Senator HATCH. Do you expect the numbers to be very high during the month of November and December? That is my question.

Secretary SEBELIUS. Well, I am hoping that, with the site improvement, we will see more robust numbers. But until the site is fully improved and we really kind of open up the doors wide to a lot of people, we are going to have, I think, a struggle getting significant numbers to sign up.

Senator HATCH. Sure. I am not trying to put you on the spot, but what I—it comes back to my original concern. Why is it so difficult to put this off until we have it up and running, running right, with the right kind of security so that people's personal and private information is not subject to fraud and these fraudsters who naturally come into the system because we are not prepared?

Secretary SEBELIUS. Again, Senator, I would say that the site has met the highest standards of security for Federal Government sites. We have taken great care, again, not to store personally identifiable information in the hub. We have met—the testing is going on 24/7 as each piece of software is added.

We need to continue to test the site, and that is part of why we have a temporary authority to operate and not a permanent one. When all the pieces of the system are fully installed, then you can do end-to-end testing at the very end, but that will not be for a while.

So the mitigation strategies are in place. It is ongoing. It is daily. And we take the privacy and security of the American public very, very seriously.

Senator HATCH. But do they not have to give their personal information: Social Security number, their earnings, what their income is, family income is, et cetera? Is that not put into the system?

Secretary SEBELIUS. When they hit the hub, Senator, that is actually referred back to databases in Social Security and Homeland Security and in the IRS.

The Federal marketplace will retain application information in case there needs to be subsequent determinations.

Senator HATCH. My question was, do they not have to give that kind of information now?

Secretary SEBELIUS. For the application, yes.

Senator HATCH. See, that is what I am worried about, that if we do not watch this and if we do not have a fail-safe system, and you pretty much admit you do not have a third-party testing unit in there trying to make sure that this works—

Secretary SEBELIUS. No. We do have a third-party testing unit.

Senator HATCH. And who is that?

Secretary SEBELIUS. MITRE is the contractor that does the third-party testing. It tested prior to going live in October. They did sign off on going live in October. They are continuing to test. We have a security team that is monitoring and performing weekly testing of border devices, conducting daily scans of the monitoring tools, and they will conduct a full security test in a stable environment when the entire site is loaded.

But we do not have the Spanish website up yet. That is an additional piece that will be coming. The shop website is coming. You

cannot do the end-to-end testing until the entire system is stood up.

Senator HATCH. That is, again—

Secretary SEBELIUS. But that testing is going on every day.

Senator HATCH. That, again, makes my case that we should not be getting into this until it is all set up. It would be better, it would be safer, be more protective of people's rights and of their personal information.

I guess what I am saying is, I think you do need an independent testing agency that is not a hired contractor to do this. I just wanted to raise these issues. I know this is very difficult for you, and I have appreciated you testifying here today.

I hope you will answer our letters when we send them to you, because I have had letters out to you that I have never gotten any answers on. And, look, we are not in it to just give you a rough time. We are in it to try to hopefully get it right.

Secretary SEBELIUS. I would love to work with you to get it right.

Senator HATCH. Thank you.

The CHAIRMAN. Thank you, Senator.

That is the main point of this whole hearing: to get it right. And you just heard Senator Hatch, the ranking member of the committee, say he wants to work with you to get it right.

I mentioned in my opening statement that I—and I am speaking for at least a majority of this committee—want to help you to get it right. But it is a 2-way street.

You have to tell us what is working and what is not working. The American people strongly believe in transparency. We do in this committee. And the more you do not tell us, the greater the problems are going to be. The more you do tell us, the good and the bad, the more likely it is that we are going to get this right at an earlier date.

Do not wait until the end of October before telling us, "Uh-oh, we are not going to be up and running until the end of November—up and running the first of December."

Work with us. This is the law. We want to do this right. And there are many points in the law that are so meritorious that have not been brought out. One is, I do believe strongly the main feature of this law is to reduce the rate of growth of health care cost in this country. We move more toward delivery system reform, all the parts of that—bundling, the ACO, et cetera—in addition to efforts by private entities to control costs. We are making headway.

One Senator mentioned that Japanese health care costs are about 8 percent of GDP; administrative costs are about 7 to 8 percent. In the U.S., they are about 18 percent. We have to work to get that 18 percent down and solve other problems with fee-for-service in this country.

So we want to keep working with you. Why? Because that is our job. We represent Americans. We represent people from all across this country, and they want this to work. They do not like the politics in this town. They do not like the carping and sniping back and forth. They just want the doggone thing to work. So let us work together to make it work.

Secretary SEBELIUS. I would welcome that. Thank you.

The CHAIRMAN. Senator Rockefeller?

Senator ROCKEFELLER. Just one comment. Actually, there is another party that has to have the attitude, Mr. Chairman, that you do, and that is the Republican Party in the Senate and the House, and the Republican National Committee and all of those people who are doing everything they can to destroy you and the President. And there is, obviously, lots of speculations as to what the motivation for that might be. They have to cooperate.

In other words, what the chairman is saying is that we will do everything we can, and he did everything he possibly could, and was unable to, on the floor of the Senate, get a single Republican vote for the bill.

It is a far-reaching, quite extraordinary bill. And I just want to add that they have a responsibility to help as opposed to simply criticizing a couple of statements that have been made.

The CHAIRMAN. Thank you, Senator.

I expected you probably would answer that one, Senator Hatch.

Therefore, Senator Rockefeller, I do not know if it was wise for you to make that statement.

Senator HATCH. Look, I think this is a terrible bill, and that is not because I am a Republican or a Democrat.

I have worked as much on health care issues around here in the last 37 years as any number of people, and, frankly, better than most.

I have a desire to have things work. But let me tell you, Senator Reid, I think, said it very well when they asked him, is this basically going to work, and he basically said that it is just a step on the way to a single-payer system, meaning a one-size-fits-all government-run system—Federal Government-run system.

That is what worries Republicans, and I think it worries good Democrats too. And I am very concerned about this going into a socialized medicine situation where we really, really cannot control the costs, cannot control the system, and we denigrate the system instead of helping it.

So, naturally, I am concerned about it, and I think a lot of Republicans are concerned about it, and I even know some Democrats who are concerned about it. This is not a simple bunch of political hacks working at it. This is a very serious set of problems.

I do not envy you to be in your position and have to answer all these questions and have to be the front person and try to make this thing work. All I can say is that, yes, I will try to help make it work, if I can, but I do not think it is going to work—and that is the problem—without costing America an arm and a leg and without really taking people's health care away from them.

But I think there are sincere people on both sides who would like to solve our health care problems in this country. And just think about it. The President said 85 percent of America had health insurance they were satisfied with. Why did we not just work on getting the 15 percent to have the health care that they need rather than jeopardize the whole system and have all these problems that are not going to go away very quickly and may never go away?

The CHAIRMAN. Well, Senators, thank you both very much. But let us remind all of us to keep our eye on the ball, and the ball that we are keeping our eye on is get this thing working. That is the charge for the day.

Given the level of interest, I just want to indicate that Senators will have a week to get their questions in, Madam Secretary, to you and I urge you to respond immediately to those questions so we can keep moving ahead.

Thank you very much. The hearing is adjourned.

[Whereupon, at 12:40 p.m., the hearing was concluded.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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### Hearing Statement of Senator Max Baucus (D-Mont.) On the Critical Need to Fix the Health Insurance Marketplaces

In February 1958, against the backdrop of a divided nation, a junior Senator from Massachusetts spoke at Loyola College in Baltimore. The young senator, named John Kennedy, said, "Let us not despair, but act. Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past – let us accept our own responsibility for the future."

More than 55 years later, JFK's advice still rings true, and it's important for us to remember now as we implement the Affordable Care Act.

Five weeks ago, the administration launched HealthCare.gov. The federal health insurance website was to be the main vehicle for millions of Americans to sign up for coverage under the Affordable Care Act. Needless to say, it has been a rocky rollout. Problems have plagued the website and limited the ability of Americans to buy the health insurance they need and deserve.

Let me say right off the bat – this is unacceptable. It has been disappointing to hear members of the administration say they didn't see problems coming.

Secretary Sebelius, the last time you came before this committee, I used two words to voice my concerns about the law's implementation. Since then, my words have been twisted and used to malign the Affordable Care Act itself.

Make no mistake, I believe in this law. I spent two years of my life working on the Affordable Care Act. There is nothing I want more than for it to succeed. But months ago, I warned that if the implementation didn't improve, the marketplaces might struggle. Other senators on this committee voiced similar concerns.

When we asked for updates on the marketplaces, the responses we got were totally unsatisfactory. We heard multiple times that everything was on track. We now know that was not the case. But that's in the past. Now it's time to move forward and figure out how to fix it.

Secretary Sebelius, you deserve credit for coming before Congress and the American people and accepting responsibility for the website's problems. Your focus is where it should be – on the future. And it's very clear to me that you're working as hard as you can to fix HealthCare.gov.

Keep at it.

When this law was created, we made a promise to the American people. We made a promise to fix a broken system. We made a promise to ensure that all Americans had access to quality, affordable health care. We made a promise to ensure that no one ever went broke just because they got sick. You, Madam Secretary, must make good on that promise.

Some people have called for your resignation, but to borrow Kennedy's words, we cannot fix the blame for the past. You need to stay at HHS and help get the marketplaces working.

You said recently that you expect the website to be running smoothly for a majority of users by late November. There is no room for error. You must meet – and I prefer you beat – that deadline. Why? Because these marketplaces open the door to quality care for millions of Americans who lack health insurance.

The non-partisan Congressional Budget Office estimated that seven million Americans will get insurance from the marketplaces in 2014. And ten years in, that number will grow to 24 million. There's no question – that can't happen unless the marketplaces run at full speed. But I believe you will fix the problems, because you know how critical the marketplaces are.

For the first time ever, they guarantee consumers will have access to high-quality, comprehensive insurance. Consumers will never be forced into bargain-basement plans that refuse to cover services like childbirth or cancer treatments. They will never be denied coverage because of preexisting conditions. They will never be cut off because they hit an annual or lifetime limit.

We already have concrete examples of how the marketplaces are helping real people. Just consider these three stories from letters I've received since October 1<sup>st</sup>.

Gary from Billings, Montana, wrote that the monthly premium he pays for his family of four is currently just over \$2,000. But thanks to the Affordable Care Act, his monthly premium for next year will be \$1,165. He'll save more than \$800 each month.

Allison from Wolf Point, Montana, wrote in to say that thanks to the Affordable Care Act, she will have access to affordable insurance for the first time in almost 20 years. Allison suffered an injury in college, and because of that preexisting condition, the cost of insurance was sky-high. Instead, she rationed visits to the doctor and cut back on the outdoor activities that make living in Montana so great. No skiing. No hiking. No horseback riding. But now, Allison will have access to high-quality coverage that she can afford. She wrote that she looks forward to being active again.

And Tony, a small business owner from Bozeman, Montana, wrote in to express his excitement that getting insurance on the marketplace will save his small business \$10,000 next year. Tony wrote, "As a small business owner, I can state emphatically that the Affordable Care Act is not only good for my business, it is the ONLY way that I can afford to continue to provide health insurance for my family and employee."

Tony says he can reinvest the \$10,000 he saves into staffing, training, and the hardware that his business needs to stay competitive. He added, "This is good for my company, myself, my employee and family, Montana, and the U.S." That's a pretty impressive list.

I have no doubt that stories just like these will keep coming in over the weeks and months ahead – especially once the marketplaces are running at full speed.

Secretary Sebelius, I was glad to hear you set a target date to have HealthCare.gov fully operational. I look forward to hearing how you plan to meet that goal. I want to make it clear that the purpose of this hearing is not to fix blame, but instead to shed some light on where things stand. And, more importantly, to learn what the Administration is doing to correct these problems, and if there's a role for Congress to help. That's what matters right now.

So as President Kennedy said, let us not despair, but act. Let us not seek the Republican answer or the Democratic answer, but the right answer.

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**STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER  
U.S. SENATE COMMITTEE ON FINANCE HEARING OF NOVEMBER 6, 2013  
HEALTH INSURANCE EXCHANGES: AN UPDATE FROM THE ADMINISTRATION**

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, delivered the following opening statement at a committee hearing examining the challenges of the health law's insurance exchanges with Health and Human Services Secretary Kathleen Sebelius:

*It's been nearly six months since you last appeared before the committee. Given all that's gone on in that time – particularly with the implementation of Obamacare – I'd say that today's appearance is long past due.*

*When you were here way back in April, you assured us that that the implementation was on track, that it was all going smoothly, and that the exchanges would be ready to go live on October 1<sup>st</sup>.*

*Now, it appears that your statements from the previous hearing were, at best, misinformed.*

*From where I sit, things do not seem to be going smoothly at all. In fact, I think we would all agree that thus far, the implementation of the so-called Affordable Care Act has been an absolute debacle. You admitted as much last week when you testified before the House Energy and Commerce Committee when you said "hold me accountable for the debacle, I'm responsible."*

*Madame Secretary, while I am glad that you are accepting responsibility for this disastrous rollout, I would have preferred that you and the rest of the administration were honest with us to begin with.*

*Perhaps in April you really did believe that things were on track. But, you had to have had several indications before October 1<sup>st</sup> that there were problems with the website and with the exchanges.*

*It is simply inexcusable that the members of this committee were not told earlier that these problems were occurring.*

*And, it wasn't for want of asking.*

*I personally sent you a number of letters asking for details on the implementation of the health care law, many of which were ignored entirely. This cavalier attitude toward a Senate committee with oversight jurisdiction over your agency is, put simply, appalling and needs to be rectified.*

*If the past month has been any indication, there are likely to be numerous additional problems ahead. That being the case, I think it is only proper that you provide this committee with more regular updates on the issues you are dealing with.*

*In fact, I would ask that you come here once a month for the next six months to provide the committee with status updates on the implementation of Obamacare. I hope you will agree to do so.*

*Like I said, Madame Secretary, it's clear that the problems you've encountered thus far were not unforeseen.*

*Two separate reports – one from the Government Accountability Office in June and another from Department of Health and Human Services Office of Inspector General in August – identified significant implementation challenges months ahead of the October 1<sup>st</sup> deadline. Yet, there is no indication that the warnings from these two independent, non-partisan government watchdogs were heeded by the administration or that any thought was given to delaying the startup date as a result.*

*When you were here in April, I raised concerns about whether adequate testing was occurring to ensure that privacy controls were in place for the exchanges. In fact, I specifically asked you about having an independent entity review the entire system before it went live to ensure that all appropriate privacy and security controls were in place. You assured me that all testing protocols were being followed and that privacy issues were a high priority.*

*However, we now know that no end-to-end testing of the system occurred before the system went live.*

*None.*

*In fact, key CMS officials knew on September 27<sup>th</sup> that there was a high security risk to the system if it went up as planned.*

*My colleagues and I have sent several letters since the spring asking for more information on what privacy controls were being instituted as part of the exchange infrastructure and asking for details about whether or not testing was being done to address the privacy and security concerns we have raised.*

*To date, we have not received any answers to our questions.*

*So not only can millions of Americans not login to the website successfully, but those who have actually succeeded could now find themselves at the mercy of identity thieves across the globe. I would call this a less than ideal situation for our constituents.*

*That brings us to another set of issues that I hope you'll be able to shed some light on today.*

*Let me start with a simple premise – words matter.*

*We have all heard the golden saying – honesty is the best policy.*

*Unfortunately this age-old wisdom doesn't seem to apply to the Obamacare pledges.*

*More and more promises made at the time this law was passed are now crumbling under the weight of reality on a daily basis. Let's start with the famous pledge that health reform would reduce costs by \$2500 for an average family.*

*The truth is, with all the new mandates going into effect, the cost of health insurance in this country is projected to rise at a remarkable rate.*

*Some studies – including one from the Manhattan Institute – estimate that individual market premiums will increase by as much as 99 percent for men and 62 percent for women nationwide.*

*Then, of course, there was President Obama's promise when the law was passed that "if you like your healthcare plan you can keep it" and that "if you like your doctor, you will be able to keep your doctor."*

*This, to put it bluntly, is simply untrue.*

*In fact, the Washington Post, on October 30<sup>th</sup>, gave it Four Pinocchio's, which represents the highest level of untruthfulness.*

*You really have to try to get Four Pinocchio's. You don't simply get it for making a misstatement.*

*Yet, it wasn't until the last few weeks that people in the administration and at the White House started trying to rewrite what the President said.*

*And let's be candid - it wasn't a newfound honest streak that changed the administration's tone – it was the fact that Americans started receiving cancellation notices from their insurers. According to the Associated Press, 3.5 million people have received such notices thus far. And, the same fate is certain to befall millions more before all is said and done.*

*Put simply, there is a long track record of broken promises and untruthful answers to both this committee and the American people with respect to how this law would work and the impact it would have.*

*I hope that will stop today.*

*No more caveats.*

*No more excuses.*

*No more spin.*

*Just give us the truth.*

*Answers like we don't know and we were wrong are perfectly acceptable, so long as that is the truth. Thank you, once again, Mr. Chairman for holding this hearing. As you can see, we have a lot to discuss.*

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STATEMENT OF

KATHLEEN SEBELIUS

SECRETARY

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

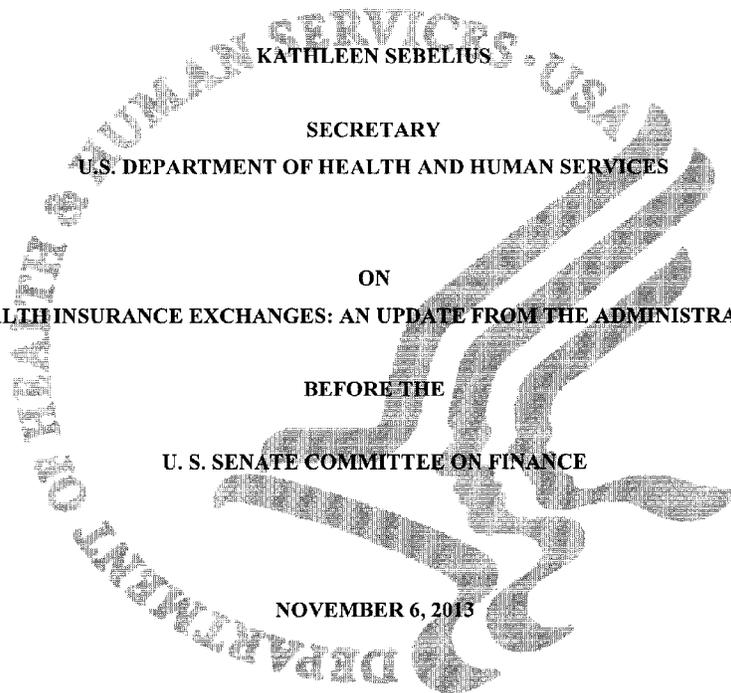
ON

HEALTH INSURANCE EXCHANGES: AN UPDATE FROM THE ADMINISTRATION

BEFORE THE

U. S. SENATE COMMITTEE ON FINANCE

NOVEMBER 6, 2013



**Testimony of Kathleen Sebelius**  
**U.S. Department of Health and Human Services**  
**on Health Insurance Exchanges: An Update from the Administration**  
**Senate Committee on Finance**  
**November 6, 2013**

Good morning, Chairman Baucus, Ranking Member Hatch, and members of the Committee. On October 1<sup>st</sup>, we launched one of the key provisions of the Affordable Care Act—the new Health Insurance Marketplace, where people without health insurance, including those who cannot afford health insurance, and those who are not part of a group plan, can go to get affordable coverage. Consumers can access the Marketplace in several ways—through a call center, by filling out a paper application, with the help of in-person assistance, or by going online and filling out an application on HealthCare.gov.

Over the past month, millions of Americans have visited HealthCare.gov to look at their new health coverage options under the Affordable Care Act. In that time, nearly 700,000 applications have been submitted to the Federal and state marketplaces from across the Nation. This tremendous interest—with over 20 million unique visits to date to HealthCare.gov—confirms that the American people are looking for quality, affordable health coverage. Unfortunately, the experience on HealthCare.gov has been frustrating for many Americans I want to assure you that HealthCare.gov can and will be fixed, and we are working around the clock to deliver the shopping experience that you deserve. We are seeing improvements each week, and by the end of November, the experience on the site will be smooth for the vast majority of users.

**Improvements Already Made to HealthCare.gov**

To ensure that we make swift progress, and that the consumer experience continues to improve, our team called in additional help to solve some of the more complex technical issues we are encountering. We brought on board management expert and former CEO and Chairman of two publicly traded companies, Jeff Zients, to work in close cooperation with our HHS team to provide management advice and counsel to the project. We have also enlisted the help of QSSI

to serve as a general contractor for the project. They are familiar with the complexity of the system, and the work they provided for HealthCare.gov—the federal data hub—is working well and performing as it should. They will work with CMS leadership and contractors to prioritize the needed fixes and make sure they get done.

A number of fixes have already been completed. Two weeks ago, the tech team put into place enhanced monitoring tools for HealthCare.gov, enabling us to get a high level picture of the marketplace application and enrollment system. Thanks to this work, we are now better able to see how quickly pages are responding, and to measure how changes improve user experience on the site.

We reconfigured various system components to improve site responsiveness. This has increased performance across the site, but in particular the viewing and filtering of health plans during the online shopping process now responds in just seconds. It was taking minutes. We have also resolved issues with how the eligibility notices are presented to consumers. They now display properly at the completion of the application process.

Another place where we have seen a lot of consumer frustration is in their ability to successfully create an account. This issue is something that we identified on October 1st, and we have made significant progress since then to deliver a much smoother process for consumers. Users can now successfully create an account and continue through the full application and enrollment process. We are now able to process nearly 17,000 registrants per hour, or 5 per second, with almost no errors.

Other fixes include software configuration changes and optimization that have increased the efficiency of system interactions. We also added capacity by doubling the number of servers and have replaced the virtual database with a high-capacity physical one. This allowed us to be more efficient and effective in our processing time and significantly reduced the account registration failures. While significant work remains, these changes are already making the shopping process easier for consumers.

**Expanding Access to Affordable Coverage Through the Health Insurance Marketplace**

We are committed to improving the consumer experience with HealthCare.gov, which serves as an important entry point to the new Marketplace. The new Marketplace is a place that enables people without health insurance, including those who cannot afford health insurance, and those who are not part of a group plan, to finally start getting affordable coverage.

Just a few weeks into a six-month open enrollment period, while some consumers have had to wait too long to access the Marketplace via HealthCare.gov, the Marketplace is working for others and consumers are also utilizing the call center, paper applications and in-person assistance to apply for coverage.

The idea of the Marketplace is simple. By enrolling in private health insurance through the Marketplace, consumers effectively become part of a form of statewide group coverage that spreads risk between sick people and healthy people, between young and old, and then bargains on their behalf for the best deal on health insurance. Because of enhanced competition, insurers are now eager for new business, and have created new health care plans with more choices and in many cases lower prices.

The premiums being charged by insurers provide clear evidence that the Marketplace is encouraging plans to compete for consumers, resulting in more affordable rates. The weighted average premium for the second-lowest-cost silver plan, looking across 47 states and DC, is 16 percent below the premium level implied by earlier Congressional Budget Office (CBO) estimates.<sup>1</sup> Outside analysts have reached similar conclusions. A recent Kaiser Family Foundation report found that, “while premiums will vary significantly across the country, they are generally lower than expected,” and that fifteen of the eighteen states examined would

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<sup>1</sup>[http://aspe.hhs.gov/health/reports/2013/MarketplacePremiums/ib\\_marketplace\\_premiums.cfm#\\_ftnref18](http://aspe.hhs.gov/health/reports/2013/MarketplacePremiums/ib_marketplace_premiums.cfm#_ftnref18)

have premiums below the CBO-projected national average of \$320 per month for a 40-year-old in a silver plan.<sup>2</sup>

This is good news for consumers. In fact, some insurers lowered their proposed rates when they were finalized. In Washington, D.C., some issuers have reduced their rates by as much as 10 percent.<sup>3</sup> In Oregon, two plans requested to lower their rates by 15 percent or more.<sup>4</sup> New York State has said, on average, the approved 2014 rates for even the highest coverage levels of plans individual consumers can purchase through its Marketplace (gold and platinum) represent a 53 percent reduction compared to last year's direct-pay individual market rates.<sup>5</sup> Furthermore, states are using their rate review powers to review and adjust rates accordingly. In Oregon, the state has reduced rates for some plans by as much as 35 percent,<sup>6</sup> and in Maryland, the state has reduced some rates for coverage offered through the Marketplace by almost 30 percent,<sup>7</sup> offering consumers an even better deal on their coverage for the 2014 plan year.

In addition to the more affordable rates resulting from competition among insurers, insurance affordability programs, including premium tax credits and cost-sharing reductions, will help many eligible individuals and families, significantly reducing the monthly premiums and cost-sharing paid by consumers. Premium tax credits may be paid in advance and applied to the purchase of a qualified health plan through the Marketplace, enabling consumers to reduce the upfront cost of purchasing insurance. In addition, cost-sharing reductions will lower out-of-pocket payments for deductibles, coinsurance, and copayments for eligible individuals and families. A recent RAND report<sup>8</sup> indicated that, for the average Marketplace participant nationwide, the premium tax credits will reduce out-of-pocket premium costs by 35 percent from their unsubsidized levels.<sup>9</sup>

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<sup>2</sup> <http://kaiserfamilyfoundation.files.wordpress.com/2013/09/early-look-at-premiums-and-participation-in-marketplaces.pdf>

<sup>3</sup> <http://hbx.dc.gov/release/dc-health-link-applauds-aetna-decision-cut-rates>

<sup>4</sup> [http://www.oregonlive.com/health/index.ssf/2013/05/two\\_oregon\\_insurers\\_reconsider.html](http://www.oregonlive.com/health/index.ssf/2013/05/two_oregon_insurers_reconsider.html)

<sup>5</sup> <http://www.governor.ny.gov/press/07172013-health-benefit-exchange>

<sup>6</sup> [http://www.oregonlive.com/health/index.ssf/2013/06/oregon\\_slashes\\_2014\\_health\\_ins.html](http://www.oregonlive.com/health/index.ssf/2013/06/oregon_slashes_2014_health_ins.html)

<sup>7</sup> <http://www.kaiserhealthnews.org/stories/2013/july/26/maryland-marketplace-premiums-exchange.aspx>

<sup>8</sup> [http://www.rand.org/content/dam/rand/pubs/research\\_reports/RR100/RR189/RAND\\_RR189.pdf](http://www.rand.org/content/dam/rand/pubs/research_reports/RR100/RR189/RAND_RR189.pdf)

<sup>9</sup> This is a simple calculation based on Figure 6 of the RAND study, available at the link above.

CBO has projected that about 8 in 10 Americans who obtain coverage through the Marketplace will qualify for assistance to make their insurance more affordable, an estimated 20 million Americans by 2017.<sup>10</sup> A family's eligibility for these affordability programs depends largely on its family size, household income, and access to other types of health coverage. After taking tax credits into account, 56 percent of uninsured Americans may qualify for Medicaid, CHIP, or health coverage in the Marketplace for less than \$100 per person per month.<sup>11</sup>

The fact is that the Affordable Care Act delivered on the product: quality, affordable health insurance. The tremendous interest shown in HealthCare.gov shows that people want to buy this product. We know the initial consumer experience at HealthCare.gov has not been adequate. We will address these initial and any additional problems, and build a website that fully delivers on this promise of the Affordable Care Act.

#### **Other Benefits of the Affordable Care Act**

While we are working around the clock to address problems with HealthCare.gov, it is important to remember that the Affordable Care Act is much more than the opportunity to purchase insurance through HealthCare.gov. Most Americans already have health coverage through an employer-based plan, or health benefit program, such as Medicare, Medicaid, or the Children's Health Insurance Program (CHIP). For these Americans, the Affordable Care Act provides new benefits and protections, many of which have been in place for some time. For example, because of the Affordable Care Act, millions of young adults have been able to stay on their parents' plans until they are 26. Because of the Affordable Care Act, seniors on Medicare receive greater coverage of their prescription medicine, saving them billions. Because of the Affordable Care Act, for millions of Americans, recommended preventive care like mammograms is free through employer-sponsored health coverage. And in states where governors and legislatures have allowed it, the Affordable Care Act provides the opportunity for many Americans to get covered

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<sup>10</sup> [http://www.cbo.gov/sites/default/files/cbofiles/attachments/44190\\_EffectsAffordableCareActHealthInsuranceCoverage\\_2.pdf](http://www.cbo.gov/sites/default/files/cbofiles/attachments/44190_EffectsAffordableCareActHealthInsuranceCoverage_2.pdf)

<sup>11</sup> [http://aspe.hhs.gov/health/reports/2013/marketplacepremiums/ib\\_premiumslandscape.pdf](http://aspe.hhs.gov/health/reports/2013/marketplacepremiums/ib_premiumslandscape.pdf).

under Medicaid for the first time. In Oregon, for example, a Medicaid eligibility expansion will help cut the number of uninsured people by 10 percent, as a result of enrollment efforts over the last few weeks, resulting in 56,000 more Americans who will now have access to affordable health care.

The Affordable Care Act is also holding insurers accountable for the rates they charge consumers. For example, insurance companies are now required to justify a rate increase of 10 percent or more, shedding light on unnecessary costs. Since this rule was implemented,<sup>12</sup> the proportion of rate filings requesting insurance premium increases of 10 percent or more has plummeted from 75 percent in 2010<sup>13</sup> to an estimated 14 percent in the first quarter of 2013,<sup>14</sup> saving Americans an estimated \$1.2 billion on their health insurance premiums.<sup>15</sup> These figures strongly suggest that the rate review program has materially influenced premiums that ultimately get charged to individuals and small businesses.

The rate review program works in conjunction with the so-called 80/20 rule (or Medical Loss Ratio rule),<sup>16</sup> which generally requires insurance companies in the individual and small group markets to spend at least 80 percent of premiums on health care and quality improvement activities and no more than 20 percent on administrative costs (such as executive salaries and marketing) and profits. In the large group market (generally coverage sold to employers with more than 50 employees), insurers must spend at least 85 percent of premiums on medical care and quality improvement activities. If insurers fail to meet their medical loss ratio requirement, they must provide rebates to their customers.

New rules will help make health insurance even more affordable for more Americans beginning

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<sup>12</sup> Health Insurance Rate Review – Final Rule on Rate Increase Disclosure and Review:

<http://www.gpo.gov/fdsys/pkg/FR-2011-05-23/pdf/2011-12631.pdf>

<sup>13</sup> <http://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/rate-review09112012a.html>

<sup>14</sup> <http://aspe.hhs.gov/health/reports/2013/rateIncreaseIndvMkt/rb.cfm>

<sup>15</sup> [http://aspe.hhs.gov/health/reports/2013/acaannualreport/ratereview\\_rpt.cfm](http://aspe.hhs.gov/health/reports/2013/acaannualreport/ratereview_rpt.cfm)

<sup>16</sup> Medical Loss Ratio Final Rule: <https://www.federalregister.gov/articles/2012/05/16/2012-11753/medical-loss-ratio-requirements-under-the-patient-protection-and-affordable-care-act>

next year.<sup>17</sup> Marketplace health insurance plans will be prohibited from charging higher premiums to applicants because of their current or past health problems or gender, and will be limited in how much more they can charge Americans based on their age.

Additionally, there are signs that the Affordable Care Act is helping to slow the growth in health care spending. The law is contributing substantially to recent reductions in the growth rate of Medicare spending per beneficiary without reducing benefits for beneficiaries.<sup>18</sup> If recent projections hold, growth in national health expenditures in the three years since the Affordable Care Act was signed into law will be the lowest since we began tracking these data in the 1960s. Employers are also reporting slower growth in health insurance premiums.<sup>19</sup> CBO analyzed the net impact on premiums by market and found that for the large group market, the Affordable Care Act will result in a 0 to 3 percent premium reduction.<sup>20</sup> This slowdown in healthcare cost growth is good for families, job creation, and the deficit.<sup>21</sup>

#### **Conclusion**

The Affordable Care Act has already provided new benefits and protections to Americans with health coverage, and we are committed to improving the experience for consumers using HealthCare.gov so that all other Americans can easily access the quality, affordable health coverage they need. By enlisting additional technical help, aggressively monitoring for errors, testing to prevent new issues from emerging, and regularly deploying fixes to the site, we have already made significant improvements to the performance and functionality of HealthCare.gov. These continuing improvements will ensure that HealthCare.gov will be fully functional for the vast majority of consumers by the end of November. I appreciate the Committee's ongoing interest in our efforts to deliver on the promise of the Affordable Care Act, and I look forward to your questions.

<sup>17</sup> Health Insurance Market Rules: <http://www.gpo.gov/fdsys/pkg/FR-2013-02-27/pdf/2013-04335.pdf>.

<sup>18</sup> <http://aspe.hhs.gov/health/reports/2013/medicarespendinggrowth/ib.cfm>.

<sup>19</sup> <http://kaiserfamilyfoundation.files.wordpress.com/2013/03/8345-employer-health-benefits-annual-survey-full-report-0912.pdf>.

<sup>20</sup> <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/107xx/doc10781/11-30-premiums.pdf>.

<sup>21</sup> <http://www.whitehouse.gov/blog/2013/09/19/dramatic-slowdown-health-costs-and-what-it-means-economy-families-and-budget>.