

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

October 4, 2012

The Honorable Secretary Kathleen Sebelius
Department of Health and Human Services (HHS)
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

On August 20, we wrote to the Centers for Medicare and Medicaid Services (CMS) regarding unresolved issues in the aftermath of the Supreme Court decision regarding the Patient Protection and Affordable Care Act (PPACA). Enclosed is a copy of the original letter sent to the Acting Administrator, Ms. Marilyn Tavenner. Despite our request for a response by September 3, 2012 we have yet to receive answers from your Department.

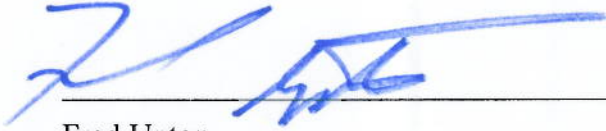
In the months since the Supreme Court's ruling that PPACA's mandatory expansion of Medicaid was unconstitutional, governors and legislatures have been left to navigate alone the regulatory maze created by the absence of guidance from your Department. Questions from States have been answered with vague and often dismissive responses, creating regulatory uncertainty that has crippled the ability of states and health providers to plan for the future.

Because of its cost, complexity, infringement on the doctor-patient relationship, and for many other reasons, we continue to believe the best solution is to fully repeal the President's health care law. The Administration's failure to provide clear guidance and transparency to States and taxpayers only strengthens that resolve. However, without repeal or delay, there are fewer than 15 months until the health care law and its consequential mandates and taxes are fully implemented. The Administration may find it more politically convenient to delay announcements about such matters, but States cannot afford such procrastination.

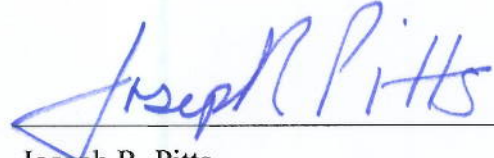
As such, we request that you promptly respond to all outstanding questions from States regarding the Administration's intentions for implementing the President's health care law. Specifically, we ask that you respond to each question outlined in any letter from governors (or their respective associations) sent to your Department since the Supreme Court ruling in June and from the non-partisan National Association of Medicaid Directors by no later than October 15, 2012.

If you have any questions or concerns with this request, please contact Ryan Long or Heidi Stirrup of the Committee staff at (202) 225-2927.

Sincerely,



Fred Upton
Chairman



Joseph R. Pitts
Chairman
Subcommittee on Health

Attachment

cc: The Honorable Henry A. Waxman, Ranking Member
The Honorable Frank Pallone, Jr., Ranking Member
Subcommittee on Health

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

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August 20, 2012

Ms. Marilyn Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services
Attention: CMS-0040-P
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, D.C. 20201

Dear Ms. Tavenner:

Just last month, the House of Representatives voted to fully repeal the President's health care law. One of the many reasons we continue to support full repeal is the growing concern with the U.S. Department of Health and Human Services (HHS) implementation of the law. The intent of this letter is to follow up on requests made to HHS earlier this year and on requests made more recently by governors and State Medicaid directors in the aftermath of the Supreme Court decision – all of which have gone unanswered. The regulatory uncertainty has crippled States and health providers in their ability to plan for future Medicaid expansions or State insurance exchanges.

On March 1, 2012, Chairman Pitts started our Subcommittee hearing on the HHS Fiscal Year (FY) 2013 Budget by asking Secretary Sebelius to outline the status of several regulations related to the development and implementation of State exchanges. At the time, the Secretary noted that many of the regulations related to the exchange had yet to be finalized. That hearing was more than five months ago and today, we find many of our States asking more questions than ever. Basic requirements, such as essential health benefits and actuarial value, have not even been outlined in a proposed rule. The near-silence from HHS on these critical issues is all the more alarming given that the Department has required States to submit an exchange application by November 16, 2012, and we are less than 100 days away from this deadline.

More recently, the Republican Governors Association (RGA) and the National Association of Medicaid Directors (NAMD) sent HHS separate letters requesting greater clarity on the Supreme Court decision and its interaction with the 2014 implementation of the State exchanges and Medicaid expansions. Those two letters included nearly 60 specific questions necessary for a State to make an informed decision about whether or not to move forward with

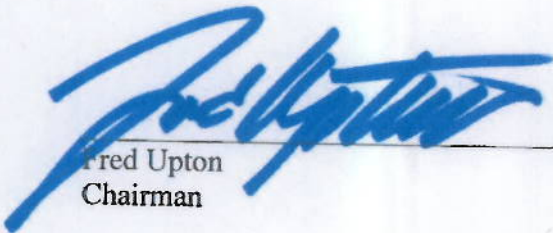
implementation of either program component. In the Department's vague and brief response to Governors, Secretary Sebelius noted, "more guidance will be issued in the year and a half before the Medicaid eligibility expansion and exchanges begin."

As you know, it has been nearly two and a half years since the President signed his health care plan into law and today, there are 500 days until the major provisions in the law are fully implemented. While it seems Center for Medicare and Medicaid Services (CMS) intends to delay any major announcements until after November, States do not have the luxury of procrastination. They deserve and need to have the necessary information from your agency to make an informed decision about whether or not to move forward in implementing the President's health care law.

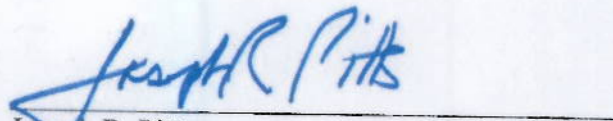
Therefore, we request that you please respond to each question included in the RGA and NAMD letters by no later than September 3, 2012. In addition, please provide this Committee with an outline of all outstanding exchange and Medicaid-related regulations and a timeline for expected completion by the same date.

If you have any questions or concerns with this request, please contact Committee staff Ryan Long or Heidi Stirrup at (202) 225-2927.

Sincerely,



Fred Upton
Chairman



Joseph R. Pitts
Chairman
Subcommittee on Health

cc: The Honorable Henry A. Waxman, Ranking Member
The Honorable Frank Pallone, Jr., Ranking Member
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