

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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WASHINGTON, DC 20515-6115

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

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

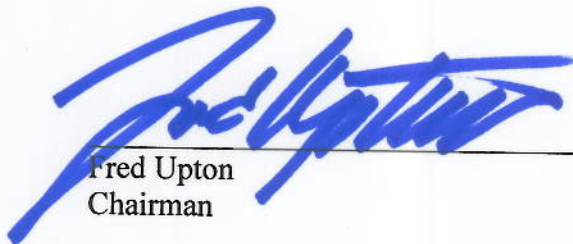
implementation of either program component. In the Department's vague and brief response to Governors, Secretary Sebelius noted, "more guidance will be issued in the year and a half before the Medicaid eligibility expansion and exchanges begin."

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,



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Fred Upton  
Chairman



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Joseph R. Pitts  
Chairman  
Subcommittee on Health

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Frank Pallone, Jr., Ranking Member  
Subcommittee on Health