

PPACA PULSE CHECK

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

AUGUST 1, 2013

Serial No. 113-78



Printed for the use of the Committee on Energy and Commerce
energycommerce.house.gov

U.S. GOVERNMENT PRINTING OFFICE

87-165 PDF

WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON ENERGY AND COMMERCE

FRED UPTON, Michigan
Chairman

RALPH M. HALL, Texas	HENRY A. WAXMAN, California
JOE BARTON, Texas	<i>Ranking Member</i>
<i>Chairman Emeritus</i>	JOHN D. DINGELL, Michigan
ED WHITFIELD, Kentucky	FRANK PALLONE, JR., New Jersey
JOHN SHIMKUS, Illinois	BOBBY L. RUSH, Illinois
JOSEPH R. PITTS, Pennsylvania	ANNA G. ESHOO, California
GREG WALDEN, Oregon	ELIOT L. ENGEL, New York
LEE TERRY, Nebraska	GENE GREEN, Texas
MIKE ROGERS, Michigan	DIANA DeGETTE, Colorado
TIM MURPHY, Pennsylvania	LOIS CAPPES, California
MICHAEL C. BURGESS, Texas	MICHAEL F. DOYLE, Pennsylvania
MARSHA BLACKBURN, Tennessee	JANICE D. SCHAKOWSKY, Illinois
<i>Vice Chairman</i>	JIM MATHESON, Utah
PHIL GINGREY, Georgia	G.K. BUTTERFIELD, North Carolina
STEVE SCALISE, Louisiana	JOHN BARROW, Georgia
ROBERT E. LATTA, Ohio	DORIS O. MATSUI, California
CATHY McMORRIS RODGERS, Washington	DONNA M. CHRISTENSEN, Virgin Islands
GREGG HARPER, Mississippi	KATHY CASTOR, Florida
LEONARD LANCE, New Jersey	JOHN P. SARBANES, Maryland
BILL CASSIDY, Louisiana	JERRY McNERNEY, California
BRETT GUTHRIE, Kentucky	BRUCE L. BRALEY, Iowa
PETE OLSON, Texas	PETER WELCH, Vermont
DAVID B. MCKINLEY, West Virginia	BEN RAY LUJAN, New Mexico
CORY GARDNER, Colorado	PAUL TONKO, New York
MIKE POMPEO, Kansas	
ADAM KINZINGER, Illinois	
H. MORGAN GRIFFITH, Virginia	
GUS M. BILIRAKIS, Florida	
BILL JOHNSON, Ohio	
BILLY LONG, Missouri	
RENEE L. ELLMERS, North Carolina	

(II)

CMS is charged, Ms. Tavenner, with implementing four elements of the law. These include health insurance marketplaces, which will make sure every American has access to quality affordable coverage even if they have a preexisting condition. The 80/20 rule, which stops insurers from spending 25, 30, or even 40 percent of enrollees' premiums on profits and overhead and make them spend more on actual health care. And then there are the insurance market reforms, such as the end of lifetime and annual limits on coverage, and the requirement that insurance cover preventive care with no cost sharing. All of these four reforms put patients and their doctors and not the insurance company in charge of basic healthcare decisions.

Madam Administrator, what does Treasury's recent decision mean for the core elements of the law that CMS is charged with implementing? And people who do not receive healthcare coverage from their employers next year will in general be able to afford affordable, high quality coverage through the State or Federal marketplaces. I think that is correct. Would you answer those questions?

Ms. TAVENNER. Yes, sir. The delay of the employer mandate does not have any impact on CMS' implementation. Just as a reminder, the delay of the employer mandate was a decision to try to work with business. And I have heard this morning that we need to work with business and help them. And a reminder also that 96 percent of large employers currently have coverage.

So this employer mandate was also a very small subset. And the decision to delay for 1 year was to try to help not increase regulatory burden on employers as they walk through this process, and it has no impact on our implementation.

Mr. RUSH. So it is safe to say that delaying the employer mandate for a year is not going to derail the law, and that the core elements are going into effect as planned.

Ms. TAVENNER. Yes, sir.

Mr. RUSH. Well, it seems to me exceedingly wrong and backwards and ill informed by my Republican colleagues to try to use this relatively minor transitional relief to try to sow doubt and confusion about whether this law is going into effect. It is really cold-blooded, cold-hearted, and callous, and they should be ashamed of themselves.

I yield back the balance of my time.

Mrs. BLACKBURN. Gentleman yields back.

Mr. Pitts for 5 minutes.

Mr. PITTS. Thank you, Madam Chair.

Ms. Tavenner, on April the 10th, 2013, the Office of Management and Budget released its sequestration preview report for fiscal year 2014. In this report, OMB confirmed the cost-sharing subsidy program in the ACA is subject to sequester to 7.2 percent reduction, a reduction of \$4 billion. Has CMS communicated to officials operating an exchange, both Federal and State, how this sequester will be applied?

Ms. TAVENNER. We have not. We are still working with OMB.

Mr. PITTS. Will the navigators and other assistance personnel be expected to properly explain to enrollees the new cost-sharing levels under sequester?

Ms. TAVENNER. That is currently under review with OMB, so I would have to get back to you on that.

Mr. PITTS. Well, doesn't this mean applicants may not be aware of their financial liability when signing up for an exchange plan?

Ms. TAVENNER. Once again, I will follow up with you after I have had discussion with OMB.

Mr. PITTS. All right. Well, given that the Department has had significant time to prepare for reductions in cost-sharing subsidies as part of the sequester, is this information available to the public?

Ms. TAVENNER. Congressman Pitts, I will have to work with OMB and get back with you on that.

[The information appears at the conclusion of the hearing.]

Mr. PITTS. Can you commit to providing detailed information regarding the implementation of the cost-sharing subsidy program?

Ms. TAVENNER. Yes, sir. I can commit to providing you information. Of course it is our strong preference that the issue of sequestration go away entirely.

[The information appears at the conclusion of the hearing.]

Mr. PITTS. Will this information be available before open enrollment, which starts on October 1, 2013?

Ms. TAVENNER. Yes, sir.

Mr. PITTS. I don't, you know, mean to ask the same question again, but are you actually testifying in front of this committee that agencies will likely be giving exchange subsidy applicants incomplete information about their financial liability? Telling my constituents to talk to OMB is really not an answer.

Ms. TAVENNER. That is not what I am saying. I am saying that I will follow up with OMB and get back to you with an answer.

Mr. PITTS. Another question. Has CMS conducted live, end-to-end testing involving all parties responsible for implementation, including the Departments of Homeland Security, the Social Security Administration, the Treasury Department, HHS, OPM, State Medicaid agencies, State exchanges, and associated contractors?

Ms. TAVENNER. So that is several questions, so let me try to answer them one by one. We started testing in October of last year, October of 2012. And so as we test we move from basic to more complex scenarios. So we will finish all end-to-end testing by the end of August.

So when you talk about systems, let me start with insurers. We have accepted their QHP submissions for more than 120 issuers. We began enrollment testing those scenarios in July. They will be complete by the end of August. And then obviously payment testing occurs between September and December because, if you remember, payments do not go out until January.

Mr. PITTS. I only have so much time. I only have a minute left. Have you had one live test with all the agencies?

Ms. TAVENNER. With all the Federal agencies? Absolutely.

Mr. PITTS. Yes. And what vulnerabilities and challenges has such testing revealed?

Ms. TAVENNER. I am happy to give you a more detailed explanation from our IT folks.

[The information appears at the conclusion of the hearing.]

Ms. TAVENNER. But as we have identified any vulnerabilities we correct them. And so right now we are in good shape.

Attachment 2—Member Requests

During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Joseph A. Pitts

1. Will the navigators and other assistants personnel be expected to properly explain cost sharing levels under the sequester?

a. If not, does this mean applicants might not be aware of financial liability?

2. The Department has had significant time to prepare for reductions, is this information available to the public? If so, please elaborate.

Answer to 1 & 2: Navigators and other assistance personnel will be required to assist individuals applying for Marketplace insurance affordability programs, including cost-sharing reductions. 45 CFR 155.215(b)(2)(iv) requires Navigators in Federally-facilitated Marketplaces (FFMs) and State Partnership Marketplaces to be trained on “eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of premiums,” such that they can explain the eligibility rules to consumers. Cost-sharing reductions are provided to qualified individuals who enroll in a qualified health plan that has a cost-sharing structure (e.g., co-pays, deductibles) such that the out-of-pocket costs paid by individuals are less than under the standard qualified health plan. Cost-sharing reductions are built into a qualified health plan’s structure for out-of-pocket costs.

3. Please provide detailed information on the cost sharing subsidy program.

Answer: Individuals and families applying for coverage through the Marketplace may choose to have the marketplace determine whether they are eligible for any financial assistance including premium tax credits and cost-sharing reductions. In general, individuals and families with incomes between 100 percent and 250 percent of the Federal Poverty Level (FPL) may be able lower their costs for out-of-pocket expenses such as deductibles, copayments and coinsurance. The level of cost-sharing reductions depends on household income and plan design.

Any individual or family that is determined eligible for a cost-sharing reduction based on their income would have to enroll in a silver plan in the Marketplace to benefit from the cost-sharing reduction. The law also contains special provisions that eliminate cost-sharing for American Indians and Alaska Natives with incomes below 300 percent FPL and for essential health benefits for American Indians and Alaska Natives when such services are delivered through the Indian Health Service (IHS), and Indian Tribe, Tribal Organization, Urban Indian Organization or through referral under contract health services. These “plan variations” are variations of silver level plans that have their cost-sharing features modified to reflect a higher actuarial value (AV) than a standard silver plan, which has a 70 percent AV. For example, individuals with incomes between 100-150 percent FPL will enroll in a plan variation with an AV of 94 percent, those

202

with incomes between 150-200 percent FPL will enroll in plans with an AV of 87 percent, and those with incomes between 200-250 percent FPL will enroll in plans with an AV of 73 percent.

The statute also specifies that in order to achieve these relevant actuarial values, plans must first reduce the out of pocket maximum for essential health benefits. So, for example, individuals between 100-200 percent FPL will automatically have their out of pocket maximum reduced by two-thirds to \$2250 for plan year 2014. Details regarding these figures and plan variations can be found in the *HHS Notice of Benefit and Payment Parameters for 2014*, published in the Federal Register on March 11, 2013.

4. Has CMS conducted live testing involving all parties responsible for implementation? If so, please elaborate.

Answer: The majority of states and Federal Agencies have engaged in successful live testing with the Hub. CMS began testing in October 2012 with the Internal Revenue Service (IRS); in May 2013 with the Social Security Administration (SSA), Department of Homeland Security (DHS), Department of Veterans Affairs (VA), and Peace Corps; and in July 2013 with the Office of Personnel Management (OPM) and the Department of Defense (DOD). CMS has also begun connectivity testing with a limited number of issuers.

5. What vulnerabilities have the live end testing revealed?

Answer: The Hub has gone through extensive testing and testing will continue to ensure it is compliant with applicable FISMA and NIST security standards.

6. Please have HHS provide any reports, audits, or work plans to show the contractors work.

Answer: We will work with your staff to provide this information.