

Congress of the United States
Washington, DC 20515

July 28, 2010

The Honorable Kathleen Sebelius
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Sebelius:

We are writing to express our opposition to the content, or lack thereof, that the Department of Health and Human Services (HHS) has placed on HealthCare.gov, the new web portal established under the *Patient Protection and Affordable Care Act* (PPACA).

While we have supported similar web portal proposals to be used as consumer information and transparency tools, we never envisioned it as a way to use taxpayer funds to promote political ideology masquerading as “facts.” We take issue with the Administration’s claim during a meeting with Republican staff on July 7, 2010, that the content chosen for the web portal was simply for “consumer education,” as so far the information presented is all one-sided. We are concerned that HHS is misusing its regulatory powers to influence the debate, and we believe it is not HHS’ proper role to limit information to only what the Administration sees as positive benefits of PPACA, while leaving out key information that will have dramatic effects on the lives of Americans.

We provide the following examples as evidence of our claim:

- The banner at the top of every page says “health care is getting better,” which is a purely subjective statement.
- Information about Medicare Advantage plans is noticeably absent. The only information listed under “Find Insurance Options” is information on Medigap plans (like the kind AARP offers), Medicaid, state-based options, and local facilities that provide “reduced priced care”. American seniors who want to learn “more about insurance for benefits that are not covered by Medicare” deserve to know all of their options.
- The warning label that pops up for insurance searches in 45 states says, “A quick note about individual insurance: Unless you live in New York, New Jersey, Massachusetts, Vermont, or Maine, be aware that the current marketplace creates several challenges for the consumer.” The five states listed are those with guaranteed-issue laws. The statement is certainly biased against states (and insurers) that do not mandate guaranteed-issue. While it is true that coverage may not be guaranteed through the individual insurance market, the webpages that contain this statement fail to contain

any follow up statements about other available options in these states or why the state has chosen to not mandate guaranteed-issue.

- Under the timeline provided by the Administration, there is a graphic of a briefcase overflowing with money, labeled “Stopping Overpayments to Big Insurance Companies” accompanied by a slide titled “Addressing Overpayments to Big Insurance Companies and Strengthening Medicare Advantage.” Not only is the graphic biased and over the top in its vilification of insurers, but it also fails to be accompanied by information from CMS’ Actuary warning that more than half of seniors will lose access to their Medicare Advantage plans due to over \$200 billion in cuts under PPACA.¹
- The website claims, under the “Strengthening Medicare” tab “The life of the Medicare Trust Fund will be extended to at least 2029, a 12-year extension...” This statement is completely false, as these new Medicare cuts are not being used to improve the program’s solvency, but instead are being used to offset the massive new entitlement spending and government programs. According to CMS’ Actuary, “in practice, the improved HI financing cannot be simultaneously used to finance other Federal outlays (such as the coverage expansions) and to extend the trust fund, despite the appearance of this result from the respective accounting conventions.”² The truth is either you’re extending the life of Medicare or you’re paying for the bill. You can’t claim both and CBO agrees.³

Items that were noticeably left off the HealthCare.gov web portal but certainly fall under the definition of “consumer education” include:

- No references to tax increases (among other negative aspects of PPACA) on the timeline.
- No warning that consumers should stay away from high-costs plans or be subject to the “Cadillac Tax.”
- No mention that there will not be enough funding for the new high risk pools to run through 2014 – as both CBO and CMS’ Actuary have found.^{4,5}

¹ See Memorandum from Richard S. Foster, Chief Actuary, Centers for Medicare and Medicaid Services, *Estimated Financial Effects of the Patient Protection and Affordable Care Act as Amended* (April 22, 2010).

² See *id.*

³ See Letter from Douglas W. Elmendorf, Director, Congressional Budget Office, to the Honorable Jeff Sessions (January 22, 2010).

⁴ See Memorandum from Richard S. Foster, Chief Actuary, Centers for Medicare and Medicaid Services, *Estimated Financial Effects of the Patient Protection and Affordable Care Act as Amended* (April 22, 2010). Letter to Senator Michael B. Enzi from Douglass W. Elmendorf, Director, Congressional Budget Office (June 21, 2010).

⁵ See Letter from Douglas W. Elmendorf, Director, Congressional Budget Office, to the Honorable Michael B. Enzi, Ranking Member of Senate Health, Education, Labor and Pensions Committee (June 21, 2010).

- No warning under the “Understand the New Law” tab that over 51% of employees will be in plans without “grandfathered” status, as employers will be forced to change their plans to comply with PPACA.⁶
- No information about private entities that offer assistance in picking a personalized plan, such as certified state-licensed independent insurance agents and brokers.
- No information about providers that still take Medicaid and/or Medicare.
- No information about, or restrictions being placed on, Health Savings Accounts (HSAs), Flexible Spending Accounts (FSAs), Health Reimbursement Arrangements (HRAs), etc. through PPACA.

Therefore, we respectfully request that HHS act as a responsible steward of taxpayer dollars and remove all factual inaccuracies, misleading statements, and subjective one-sided information, while adding essential consumer education information, whether positive or not.

We appreciate your attention to this issue and look forward to your prompt response.

Yours truly,

W. Cadell Abin

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David Price

Peter Griffith

R. Busby

Rodney Alexander

Patrick J. McHenry

Ron Paul

Steve King

Geoff Jarvis

Cliff Bond

⁶ See 75 FR 34538, *Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act* (June 17, 2010).

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