

# United States Senate

WASHINGTON, DC 20510

February 27, 2015

The Honorable Sylvia Mathews Burwell  
Secretary  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Dear Secretary Burwell:

Earlier this week it was announced that over half of Americans who received subsidies to help pay for health care coverage on the federally facilitated marketplace (FFM) now owe money back. According to H&R Block, 52 percent of individuals receiving subsidies were overpaid, and they will have to reconcile the difference with the Internal Revenue Service (IRS) when they file their tax returns. On average, these individuals owe \$530.<sup>1</sup> It is clear that the current methods used to calculate subsidy eligibility are not working.

The miscalculation of subsidies is due, in part, to the failure of the Department of Health and Human Services (HHS) to complete the construction of a website for individuals to shop and enroll in health insurance. The Administration established HealthCare.gov in order to facilitate the FFM and calculate whether people are eligible for subsidies established by the Affordable Care Act. Unfortunately, if the subsidies are not calculated correctly the difference must be reconciled when individuals file their taxes. When enrolling in health insurance through HealthCare.gov, individuals relied on their 2012 income to estimate their income for 2014. The flawed structure of the timeframe used to predict income and the fact that HHS does not have a reliable method of verifying eligibility is evident in the large number of individuals who now must pay back incorrect subsidy amounts.

According to news reports, much of HealthCare.gov remains unfinished. In particular, insurers report that there is no automated process to receive subsidies, and the website is relying on a manual workaround.<sup>2</sup> This increases the potential for error, and is also not an effective use of taxpayer dollars. Additionally, it is a direct contradiction to statements you made before Congress, saying that "everything is automated" on HealthCare.gov.<sup>3</sup>

Another problem many taxpayers are experiencing is the receipt of incorrect tax forms from HealthCare.gov. Last week, it was revealed that 800,000 people received incorrect Form 1095-As, the tax statements containing health coverage information. Additionally, there may be people whose eligibility changed throughout the year who will need to report corrections on their

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<sup>1</sup> H&R Block, "Taxpayers Following ACA Rules, Refunds Take a Hit," February 24, 2015.

<sup>2</sup> Politico, "Behind the Curtain, Troubles Persist in HealthCare.gov," February 17, 2015.

<sup>3</sup> Statement of HHS Secretary Sylvia Mathews Burwell before U.S. House of Representatives Committee on Appropriations, February 25, 2015.

1095-As. To date, HHS has still not developed a process for correcting the 1095-As. People who received incorrect forms have been told to wait to file their taxes.

There are many reasons a person's eligibility for subsidies could change throughout the year. Currently, there is no easy way for people to report that information, and there is *no* way for a health insurance provider to report the information for them. Instead, an individual must log into HealthCare.gov and update their information every time there is a change in employment, income, or a life event. Not only is this an onerous process for individuals, but it also results in a greater number of incorrect subsidy calculations.

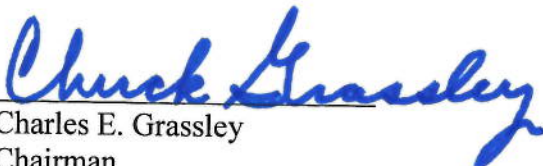
The current methods of calculating subsidies are clearly not working. This has immediate negative impacts on people who now must pay money back to the IRS. It is crucial that HHS take steps to address this problem.

We request you please provide the following information:

1. Is HHS evaluating its process for estimating subsidies? If yes, please explain any action you are considering. If no, please explain why not.
2. Is HealthCare.gov actually completely automated at this time? If not, please explain your statement before Congress and provide a list of all manual workarounds currently in use.
3. What is your process for correcting 1095-As?
4. If a person received an incorrect 1095-A, what actions should they take?
5. Has HHS considered whether to allow insurers to update information when they know a person's eligibility has changed?

Thank you for your attention to this matter. We would appreciate a response by March 13, 2015. If you have any questions, please do not hesitate to contact Tegan Millspaw with Senator Grassley's Judiciary Committee staff at (202) 224-5225 and Sarah Johnson with Senator Portman at (202) 224- 3353.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary



Rob Portman  
Chairman  
Permanent Subcommittee on Investigations  
Homeland Security and Government Affairs  
Committee