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December 20, 2024

**VIA ELECTRONIC TRANSMISSION**

The Honorable Gene L. Dodaro  
Comptroller General  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C., 20548

Dear Comptroller General Dodaro:

Next year, Congress will be tasked with examining the implications of the expiration of the enhanced subsidies currently provided for the purchase of health insurance on the Affordable Care Act (ACA) marketplaces. To best understand how the ACA marketplaces are currently operating, I write to request that the Government Accountability Office (GAO) conduct a study regarding insurer practices and program integrity measures on the ACA marketplaces.

As you know, under P.L. 117-2, Democrats expanded the eligibility for subsidies provided under the ACA. This allowed enrollees at 100% to 150% of the federal poverty level (FPL) to receive subsidies covering their full premium cost, and made households over 400% of the FPL eligible to receive a premium tax credit (PTCs). The expansion under P.L. 117-2, and subsequent extension by Democrats under P.L. 117-169, are often referred to as the “enhanced subsidies.”<sup>1</sup> Under current law, the enhanced subsidies will expire at the end of 2025.

Subsidies impact insurer practices on the ACA marketplaces. A prime example is the practice of silver-loading, where in order to compensate for the expense of Cost Sharing Reductions (CSRs) mandated under the act, plans inflate silver plan premiums. Often, the subsidy payments are made directly from the Department of the Treasury to the applicable insurance company in what is known as the advance payment of the PTC (i.e., APTC). It is essential to understand how this transaction impacts insurer behavior, and ultimately, impacts the patient, who is receiving and paying for health care.

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<sup>1</sup> P.L. 117-2 is commonly known as the American Rescue Plan Act of 2021. P.L. 117-169 is commonly known as the Inflation Reduction Act.

In addition, I am concerned about current program integrity measures being used on the ACA marketplaces. Recent reports of unauthorized marketplace enrollment and plan switching are extremely troubling.<sup>2</sup> In these cases, agents and brokers acting in bad faith are able to access a policyholder's coverage information and switch the enrollee from one plan to another with just their name, date of birth, and state, and earn commission by doing so. Enrollees are ultimately responsible for the higher cost plan, which they did not choose, and must retrospectively adjust the amount of taxes owed from excess PTCs due to the unauthorized plan switch.

I am also disturbed by reports surrounding outright fraudulent enrollment on the marketplaces, likely incentivized by the enhanced subsidies. During the 2024 open enrollment period, nearly half of ACA exchange enrollees reported income between 100% and 150% of the FPL, and thus, qualified for fully-subsidized plans with \$0 premiums; however, in certain states, the number of sign ups with reported incomes at applicable levels exceeded the number of eligible enrollees. Estimates suggest that fraudulent exchange enrollment at 100% to 150% of the PFL is around four to five million people this year.<sup>3</sup> It is clear that program integrity measures are falling short on the ACA marketplaces. Understanding where program integrity measures are inadequate will inform Congress of what steps are necessary to protect patients in the individual market.

Additionally, taxpayer dollars continue to fund the Navigator program to provide assistance to ACA marketplace enrollees but the cost-benefit of Navigators is unclear. Recently, the Centers for Medicare and Medicaid Services (CMS) announced a Notice of Funding Opportunity (NOFO) of \$500 million in grants over the next five years to increase the size of the Navigator program. To inform Congress of the necessity of this program, it is critical to examine evidence of how the Navigators uphold program integrity on the marketplace, given that taxpayer dollars fund the program.

Specifically, I request that GAO examine the following:

- Changes in insurer practices as a result of the offering of PTCs, including the enrollment of individuals in a specific tier plan (e.g., silver-loading), and how such practices have impacted subsidies that insurers receive on the ACA marketplace; and,
- The shortcomings of current program integrity measures on the ACA marketplaces, including practices that permitted unauthorized plan switching and fraudulent enrollment at falsified income levels. In examining unauthorized plan switching, please detail CMS' response to reports of such plan switches and how the enhanced subsidies impacted agent and broker behavior in enrolling individuals in specific plans. In examining fraudulent enrollment at 100% to 150% of the FPL, please detail how the enhanced subsidies impact incentives to falsify income and CMS' process for verifying income upon exchange

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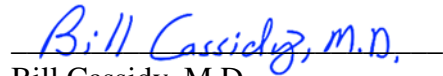
<sup>2</sup> Julie Appleby, *ACA Plans Are Being Switched Without Enrollees' OK*, KFF Health News (Apr. 2024), <https://kffhealthnews.org/news/article/aca-obamacare-plans-switched-without-enrollee-permission-investigation/>.

<sup>3</sup> Brian Blase & Drew Gonshorowski, *The Great Obamacare Enrollment Fraud*, Paragon Health Institute (June 2024), <https://paragoninstitute.org/private-health/the-great-obamacare-enrollment-fraud/>.

enrollment. In assessing the lack of program integrity measures in place on the ACA marketplace, please consider the role of the ACA Navigators in upholding program integrity, given the federal funding provided to the program.

Following the completion of this study, I request that the Comptroller General of the United States submit to the Senate Committee on Health, Education, Labor, and Pensions a report containing the results of such study and any pertinent recommendations. To facilitate a timely understanding of the work done by GAO, I request that preliminary reports and briefings be shared as appropriate. I greatly appreciate your time and prompt attention to this matter.

Sincerely,



Bill Cassidy, M.D.

Ranking Member

U.S. Senate Committee on Health,  
Education, Labor, and Pensions