United States Senate

WASHINGTON, DC 20510

September 27, 2010

Richard Foster
Chief Actuary
Centers for Medicare and Medicaid Services
7500 Security Boulevard, Room N3-01-21
Baltimore, Maryland 21244-1850

Dear Mr. Foster:

We continue to value your expertise as the Chief Actuary at the Centers for Medicare and Medicaid Services. We know that the professionals in your office develop estimates based on the best available data and modeling capability when scoring various policy proposals. We are writing to request your expertise in assessing the fiscal impact of the Patient Protection and Affordable Care Act (PPACA), under varying assumptions.

Your April 22, 2010 analysis of the PPACA, as amended by the Health Care and Education Reconciliation Act, estimated that, on net, one million American workers will lose their employer coverage over the next ten years. You also estimated that $539 billion will be spent on subsidies for health insurance policies purchased through the new Insurance Exchanges created by PPACA. We recognize OACT made these estimates based on the best information available at the time, though we believe that feedback from the employer community subsequent to the passage of the law warrants additional analysis.

As you know, employers have historically sought to offer competitive health benefit packages to attract the best and brightest workforce. However, under PPACA's new structure of mandates and subsidies, many employers have noted the significant economic incentive to drop employee health coverage. For example, if an employee's health benefits cost an employer $8,000 in 2014 and the employer was penalized $2,000 for not providing those benefits, an employer could save $6,000 by not offering health benefits. Caterpillar recently estimated it could save 70 percent of employee health care costs by dropping coverage and paying penalties. Similarly, AT&T estimated it could save $1.8 billion by dropping coverage and paying the penalties. A new survey by Fidelity Investments found that 84 percent of employers are closely examining their employee health benefits and 20 percent of them are considering dropping coverage. These employer savings could be redirected to other forms of employee compensation or other expenses, and the employees could receive the subsidies through the new insurance exchanges. As a result, the spending included in PPACA may be substantially greater than initially estimated.

We understand that the value of the employer tax exclusion and employer-provided health benefits may be of greater worth to some employees, especially higher wage employees who benefit most from the employer exclusion, than the value of receiving subsidies through the new insurance exchanges. However, receiving subsidies through the new exchanges may be more financially attractive for lower wage employees who benefit less from the employer exclusion. While we understand how employee benefit nondiscrimination rules could lead a substantial number of employers to continue offering health benefits to all of their employees, we are concerned that many employers may design ways to stratify their labor force to their economic advantage. For example, employers may decide to subcontract their lower wage work force, but keep their higher wage work force. This arrangement would relieve them of the health care costs of lower wage workers, who could be eligible for subsidies through the new exchanges, but allow them to continue offering health benefits to higher wage workers, who will benefit from the employer exclusion. If employers devise ways to stratify their labor force as we speculate, we are concerned that this would dramatically increase direct spending on the subsidies through the insurance exchanges.

Additionally, we understand that OACT's April 2010 estimate took into account a significant number of low-wage firms dropping coverage over a 10-year period. Given the number of employers considering dropping coverage in the near future, we are concerned that a significant number of low-age firms may drop coverage starting in 2014 rather than gradually through 2019. We are also concerned about the direct spending impact of this potential employer action.

OACT's April 2010 estimate of PPACA indicates that there are currently 164 million Americans covered by employer-sponsored insurance and estimates that just 17 million Americans will receive subsidies through the new insurance exchanges by 2014. Because the federal budget deficit is currently at $1.4 trillion and the national debt is now more than $13 trillion, we believe Congress needs more information about the potential impacts of PPACA on the federal budget through a sensitivity analysis. Therefore, we request a sensitivity analysis with estimates under the following assumptions, relative to OACT's April 22, 2010 estimate of PPACA, as amended by the Health Care and Education Reconciliation Act:

1. If 10 percent of employees, who make less than 400 percent of the federal poverty level and currently have employer-sponsored coverage, lose their coverage and obtain subsidized coverage in the exchange, what would be the change in direct spending for subsidies in the insurance exchanges?
2. If 30 percent of employees, who make less than 400 percent of the federal poverty level and currently have employer-sponsored coverage, lose their coverage, and obtain subsidized coverage in the exchange what would be the change in direct spending for subsidies in the insurance exchanges?
3. If 50 percent of employees, who make less than 400 percent of the federal poverty level and currently have employer-sponsored coverage, lose their coverage and obtain subsidized coverage in the exchange, what would be the change in direct spending for subsidies in the insurance exchanges?
4. For each of these three assumptions, what would be the aggregate change in direct spending under PPACA?

We thank you for your consideration of this request, and look forward to your analysis of these scenarios. If you have any questions, please contact Stephanie Carlton at 228-0996.

Sincerely,

John Cornyn
United States Senator

Orrin Hatch
United States Senator