

MAX BAUCUS, MONTANA, CHAIRMAN

JOHN D. ROCKEFELLER IV, WEST VIRGINIA  
RON WYDEN, OREGON  
CHARLES E. SCHUMER, NEW YORK  
DEBBIE STABENOW, MICHIGAN  
MARIA CANTWELL, WASHINGTON  
BILL NELSON, FLORIDA  
ROBERT MENENDEZ, NEW JERSEY  
THOMAS R. CARPER, DELAWARE  
BENJAMIN L. CARDIN, MARYLAND  
SHERROD BROWN, OHIO  
MICHAEL F. BENNET, COLORADO  
ROBERT P. CASEY, JR., PENNSYLVANIA

ORRIN G. HATCH, UTAH  
CHUCK GRASSLEY, IOWA  
MIKE CRAPO, IDAHO  
PAT ROBERTS, KANSAS  
MICHAEL B. ENZI, WYOMING  
JOHN CORNYN, TEXAS  
JOHN THUNE, SOUTH DAKOTA  
RICHARD BURR, NORTH CAROLINA  
JOHNNY ISAKSON, GEORGIA  
ROB PORTMAN, OHIO  
PATRICK J. TOOMEY, PENNSYLVANIA

# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

AMBER COTTLE, STAFF DIRECTOR  
CHRIS CAMPBELL, REPUBLICAN STAFF DIRECTOR

July 10, 2013

The Honorable Jacob J. Lew  
Secretary  
U.S. Department of Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

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

Dear Secretaries Lew and Sebelius:

We write to express concern regarding the impact of user fees in federal, partnership, and state-based exchanges on the federal budget and more specifically on the cost of the advance premium tax credits (APTC) established under the health law.

Section 1311 of the Patient Protection and Affordable Care Act (PPACA) requires states establishing exchanges to ensure they are self-sustaining beginning on January 1, 2015, and allows for the assessments or user fees – or a tax – to be imposed on participating issuers. User fees will be determined based on the budgetary requirements of operating and maintaining the exchange. States have provided exchange budget estimates that range from \$2.1 million in Delaware to \$300 million in California. The President's Fiscal Year (FY) 2014 Budget request estimated that the 3.5% user fee established through regulation to be assessed on issuers participating in the federal and partnership exchanges will raise \$450 million.

A memorandum, published on April 22, 2010, by the Centers for Medicare and Medicaid Services (CMS) Office of the Actuary noted that the fees and excise taxes established under PPACA "...would generally be passed through to health consumers in the form of ... higher insurance premiums..." This has also been confirmed in testimony by the Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) related to the impact of fees and taxes under PPACA on the cost of health care goods and services.

The law provides subsidies to individuals with income between 100% and 400% of the federal poverty level (FPL) through the APTC, which is based on income and the plan premium.

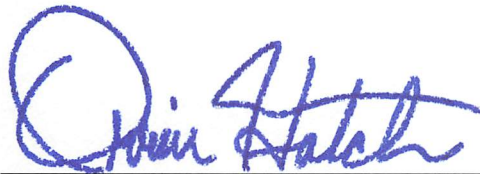
The APTC limits the premium individuals will pay based on their level of income. For example, a 2% cap is provided for individuals with incomes up to 133% of the FPL and the cap increases to 9.5% for individuals making between 300% and 400% of the FPL. Therefore, any increase in premiums above the income cap will increase the cost of the APTC, making the user fees of the “self-sustaining” exchanges an additional burden on the federal budget.

The federal debt is nearly \$17 trillion and the cost of the APTC has increased over 107%, according to the President’s FY2012 and FY2014 budget requests. The law is marketed as the “Affordable Care Act,” yet the financing mechanisms under the law indicate that it is anything but affordable. To better understand whether the Administration is implementing the law with federal spending in mind; please provide a detailed response to the following questions:

- 1) How is the Administration ensuring that the “self-sustaining” requirement for exchanges is being fulfilled, including plans to limit exchange user fees?
- 2) What cost containment measures have been or will be taken in response to the 107% increase in subsidy growth due to both employers dropping coverage and increases in health insurance premiums?

We appreciate a prompt response to this critical question about the financial solvency of exchanges under PPACA by August 10.

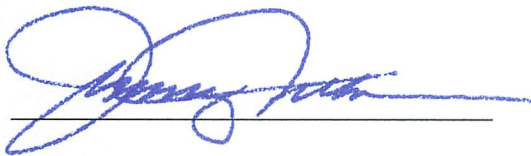
Sincerely,



---



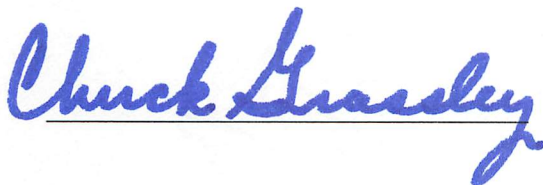
---



---



---



---



---