



March 18, 2015

Congressman Fred Upton, Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton:

As a seniors advocacy organization representing more than 7.2 million elderly across the nation, we remain extremely concerned about the continued and ongoing implementation of the Affordable Care Act's (ACA) state health exchange marketplaces (HIX), both in light of the scandalous failure of Cover Oregon, as well as the expected ruling this June of the Supreme Court case *King v. Burwell*.

Cover Oregon today stands as a disgraceful monument to the excesses of politics intermingling with public policy, ending in numerous scandals still being unearthed, the well-earned resignation of Governor John Kitzhaber, and several on-going criminal investigations. In the process, more than \$350 million of taxpayer money was wasted as the Oregon exchange closed its doors. None of this, of course, could have been accomplished without the complicit assistance of the Centers for Medicare and Medicaid Services (CMS), which fueled this debacle with \$250 million of taxpayer subsidies and an absence of true oversight.

In light of this colossal failure of government to properly serve the people while wasting an obscene amount of taxpayer resources, we call on your Committee to conduct a comprehensive and thorough investigation to find and report not just the facts of CMS and the Cover Oregon scandal, but also the conditions inherent in the ACA and its relationship with state exchanges that allowed such a shameful sequence of events to take place. We strongly believe that such an investigation will unveil inherent flaws and weaknesses within CMS and the HIX infrastructure which can then be properly addressed and remedied, helping to ensure that this episode never repeat itself elsewhere.

Should the Supreme Court rule this spring under *Burwell* that the federal healthcare marketplace is not legally able to provide subsidies under the ACA, then there will be renewed focus on state exchanges that will make the failure of Cover Oregon much more impactful. As more details of Oregon's scandal are revealed and unfold in public view, there arises an urgent need and justification that Congress -- as a whole, as well as through vital committees such as the one you Chair -- serve as a watchdog over the operations and functioning of state healthcare exchanges nationwide.

Oregon's spectacular failure is the kind of rarity achieved only through a perfect storm of rampant incompetence, personal corruption, and naked politics. From the very start, lawmakers and agencies were warned of problems in launching Cover Oregon online, but as ample media reports and

investigations have proven, these warnings were repeatedly ignored. As more facts began to come to light, the Governor's appointees and campaign staff compounded the problems by conspiring to hide the problems and shift blame elsewhere.

This was allowed to transpire despite numerous state and federal agencies, officials and lawmakers purportedly working together to provide oversight. Yet Oregon, under the leadership of former Gov. Kitzhaber, nonetheless managed to fail this responsibility with the assistance of what amounts to nothing less than a shocking lack of accountability. The record thus far paints an appalling picture of all involved:

- Governor Kitzhaber's office and the Oregon Health Exchange (OHA) were warned well in advance by consultants that Cover Oregon was unlikely to meet its Oct. 1, 2013 launch date;
- Governor Kitzhaber put his top political advisor, the one guiding his re-election campaign, in charge of Cover Oregon, a woman who confessed to no expertise on healthcare issues;
- The Governor's office, along with his campaign, conspired to manipulate data and hide outside analysis of Cover Oregon's failures from the public and media;
- OHA communications were controlled by the Governor's campaign consultants, who created a false narrative of why the exchange was failing;
- The Governor's political consultant instigated him to file a lawsuit against Oracle, a private company assisting Oregon, solely to shift blame from their own repeated failures;
- The same group of individuals committed to the Governor's re-election made the decision to abandon the Oregon exchange and instead shift to the Federal Facilitated Marketplace (FFM), thus wasting the \$350 million investment in Cover Oregon.

Through the entire failed enterprise, bad management, incompetence, poor planning, dysfunction, corruption, conflicts of interest, and decisions based solely on elective politics trumped every other consideration in bringing healthcare to market in Oregon. It should be abundantly clear why we and millions of Americans are concerned as ACA implementation moves forward, and why all of the facts pertaining to this debacle demand to be brought to light.

Chairman Upton, with well over 40 million Americans now aged 65 and older, we cannot allow politics or bad public policy with no true oversight to dictate the quality and access to care of our elderly. This issue is THE most critical to America's seniors, and we again respectfully request that you consider this matter most seriously and instigate a proper and thorough investigation to protect the American people from such a scandal ever occurring again.

Sincerely,

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