COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

January 25, 2013

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

Dear Secretary Sebelius:

As you know, the independent Government Accountability Office (GAO) recently contacted the Centers for Medicare and Medicaid Services (CMS), identifying "several inaccuracies that raise concerns about the reliability of the data provided to [it] by CMS and the data [CMS] makes available to beneficiaries to inform them of their Medicare private health plan options."

It is no secret that this Administration sees little value in Medicare private health plans. In fact, CMS' own regulations suggest that the federal government is better at choosing a plan for seniors than letting seniors choose for themselves. This Administration has gone so far as to eliminate health care choices for seniors, even when many seniors have freely chosen to enroll in such plans.

Regardless of how the Administration feels about the private sector, CMS has the responsibility to ensure that information it is releasing to seniors and government watchdogs is accurate. GAO stated that, "Agencies and beneficiaries depend on the accuracy of CMS data to make important decisions regarding program policy and individual health coverage. Additionally, CMS needs reliable data in order to effectively administer and oversee the Medicare program, which involves a major portion of the federal budget and affects the health care of millions of beneficiaries." We couldn't agree more.

In preparation for a recent hearing, the inability of CMS to provide GAO with accurate data nearly caused GAO to unknowingly provide the Health Subcommittee with incorrect data. Only through close comparison of CMS' data and data provided by the Medicare Cost Contractors Alliance did GAO learn of CMS' inaccuracies. Specifically, CMS reported to GAO that 20 Medicare cost contracts operate in the Medicare program, 15 of which are open to new enrollment. However, after the hearing and upon further review of the data, GAO discovered that one of these 15 plans was not accepting new enrollees and another plan had been closed to new enrollment for over four years.

Making matters worse, GAO also found that the "Medicare Plan Finder – a tool on Medicare.gov that is intended to help beneficiaries find private health plans in their area that best meets their needs – contains inaccurate information about the availability of certain Medicare cost contracts." Specifically, health plans that are open for enrollment were not listed in CMS' beneficiary plan finder tool and plans that were listed as options were closed to new enrollment.

CMS blamed its inaccuracies on undefined and unspecified "system errors," a response that appears to be an excuse but not an explanation. Instead, these significant lapses in data call into question the ability of CMS to provide reliable and accurate data to Medicare beneficiaries, Congress, and congressional support agencies.

Unfortunately, this is just the tip of the iceberg. Beginning next year, hundreds to billions of dollars of ObamaCare subsidies, funded by Medicare cuts and tax increases, are expected to begin flowing to insurance companies participating in new plan finders called "Exchanges" – many of which will be run by CMS. CMS will be responsible for establishing the infrastructure of the plan finders, collecting data and information from participating health plans, and determining which health plans will be allowed to participate, among other responsibilities.

Millions of Americans will be forced to buy insurance in these Exchanges or pay the ObamaCare mandate penalty. This raises a number of concerns. If CMS is unable to present accurate data for just 15 Medicare cost contracts, how can it be expected to present accurate information in dozens of Exchanges for many more plans? What happens if a family enrolls in a health plan through the CMS Exchange plan finder and later finds out that its health plan does not exist and only appeared as an option because of a CMS "system error?" Will the family be subject to new fines because it violated ObamaCare's mandate to buy health insurance? Will the health care services it seeks be reimbursed if that family finds out that its family physician does not, in fact, participate with their health plan even though CMS' plan finder said the physician did?

The recent experience of GAO underscores the concern that these sorts of "errors" will be the norm, not the exception to the rule. Medicare beneficiaries deserve to be presented with accurate information about the private health plan choices available to them. Please respond, in writing, to the following questions by February 8, 2013.

1. What steps did CMS take to address each of the data inaccuracies raised by GAO in its November 7, 2012, letter? When did CMS address them?

2. Did CMS conduct a comprehensive review of its internal and external systems to ensure that the Medicare Advantage and Medicare Part D plan finders did not contain similarly inaccurate beneficiary plan choice information? If so, how did CMS conduct this review and what did CMS find? If not, why?

3. Did CMS identify any further inaccuracies regarding cost contract data beyond those identified in the GAO letter? If so, please identify those inaccuracies and how the agency addressed them.

4. What specific steps will CMS take to ensure that these errors will not happen in the future in both Medicare and in the Exchanges?

5. Has CMS been made aware, or has CMS identified, other areas over the past four years where inaccurate information was presented to Congress and/or congressional support agencies? If so, please explain in detail the nature of the inaccuracies and how CMS was made aware of the issue.

Thank you for your prompt attention to this matter.

Sincerely,

DAVE CAMP
Chairman

KEVIN BRADY
Chairman
Subcommittee on Health