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U.S. House of Representatives

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JANICE MAYS,
MINORITY CHIEF COUNSEL

May 21, 2014

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

Dear Secretary Lew,

Last year, Members of the Committee on Ways and Means wrote to Health and Human Services Secretary Kathleen Sebelius concerning the Federal government's inability to verify incomes for individuals receiving tax credits and cost-sharing subsidies under the President's health care law. These concerns followed findings by the Treasury Inspector General for Tax Administration that the Internal Revenue Service failed to follow internal controls and testing procedures to protect taxpayer dollars paid out as insurance subsidies. In her response, Secretary Sebelius wrote that payment of the tax credits – for which the Treasury Department is responsible – would rely on the honor system and a post-payment recapture for overpayments. In other words, the Administration will pay insurance companies first and fix payment accuracy at a later date. As you know, this failure to verify incomes will result in millions of individuals receiving tax subsidies for which they are ineligible. Once these subsidies are reconciled with tax filings, many of these individuals will be surprised to learn they owe the IRS because the Administration will recoup them not from the insurance companies but individual taxpayers.

We now know we were right to be concerned. *The Washington Post* recently found that more than one million Americans could be receiving incorrect tax subsidies for plans purchased on the Federally Facilitated Marketplace. The Treasury Department is unable to ensure that the correct amounts of subsidies are being paid to these insurance companies for the right policyholders. According to the article, there are now as many as 1.5 million cases of significantly inaccurate subsidy payments due to incorrect incomes, and the government does not expect to begin sorting out the inaccuracies until later this summer. These errors occurred because the Administration failed to complete the healthcare.gov system. Despite spending over \$1 billion of taxpayer money on the system, all we have is an honor system and manual, paper-based verification as the trigger for the distribution of billions of dollars in taxpayer subsidies to insurance companies.

Instead of taking action now, the Administration intends to continue spending taxpayer dollars and hopes that someday, somehow, it will recapture these improper payments. This is outrageous, but not surprising given the Administration's past performance in implementing the President's health care law. If the Administration intends to continue distributing taxpayer dollars to insurance companies based on estimates provided by the insurers, the risk of error needs to be placed on insurers, not taxpayers. Insurers should not receive any additional tax dollars unless they are prepared to bear burden of fully repaying all over payments.

In an effort to protect taxpayer dollars against further waste, we write to demand that the Treasury Department:

1. Halt all subsidy payments to insurers until the Treasury Department is able and willing to verify income information and ensure it is not making erroneous payments. This action will ensure Americans are not hit with a tax bill next April due to the government's failure to verify income eligibility;
2. Report the number of taxpayers that have provided income documentation and, of these, the number that have been processed;
3. Report the percentage of applicants with projected income that is less than past income based on tax filings and insurance applications;
4. Report on the status of the income verification system required by the Continuing Appropriations Act, 2014;
5. In her December 31, 2013 certification to Congress, Secretary Sebelius wrote, "I certify that the American Health Benefit Exchanges... verify that applicants for advance payments of the premium tax credit and cost-sharing reductions are eligible for such payments and reductions...." We now know that her certification was not true. Did Secretary Sebelius consult the Treasury Department in making this certification, and if so, what did the Treasury Department communicate regarding its veracity? Provide all documents and communication concerning Secretary Sebelius's December 31 certification in the possession of your Department;
6. Last year, the IRS refused to comply with TIGTA's recommendation that the IT Cybersecurity organization develop an action plan regarding failed security tests. We ask that the Treasury Department and IRS implement all TIGTA recommendations regarding the integrity of insurance subsidy payments and provide an update on the IRS's implementation of TIGTA's remaining recommendations; and
7. Provide an estimate of the overpayment of subsidies for 2014 that will be subject to recapture.

We ask that you respond to this request by no later than June 4, 2014. If you have any questions about this request, please contact Committee staff at (202) 225-5522.

Sincerely,


DAVE CAMP
Chairman


Sam Johnson
Member of Congress

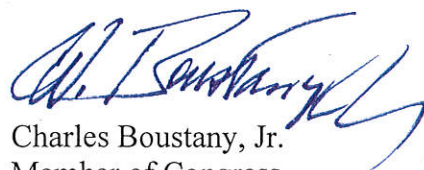

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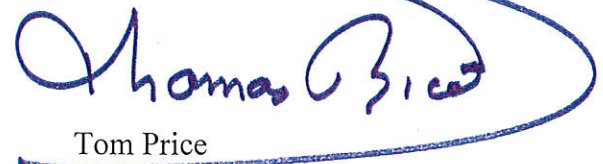

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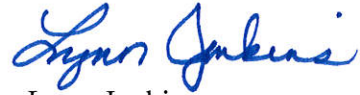

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