One Hundred Eighteenth Congress
Congress of the United States
House of Representatives
WASHINGTON, DC 20515

June 28, 2024

The Honorable Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Comptroller General Dodaro:

The Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on the Judiciary are conducting oversight of Obamacare-related fraud and whether the Biden administration is ignoring or allowing this abuse of taxpayer money to continue. Recent reporting shows an astonishing level of improper, and potentially fraudulent, behavior in Obamacare markets. Accordingly, we write to request information related to the extent of this fraud and the federal government's involvement in allowing this abuse to continue.

The Democrat-passed tax-and-spend laws resulted in tens of billions of additional taxpayer dollars being spent to prop up Obamacare plans by increasing subsidies given to insurance companies far above those originally authorized by Congress.[1] Recently, the Congressional Budget Office (CBO) estimated that making those subsidy levels permanent would add nearly $400 billion to the deficit on top of the hundreds of billions in existing Obamacare spending.[2]

A key feature of this expansion increases subsidies for insurance companies such that the full cost of premiums for individuals with incomes between 100 and 150 percent of the Federal Poverty Level (FPL) is paid for by American taxpayers, often referred to as "zero-premium" plans. This policy, coupled with the Biden administration's regulatory actions to eliminate program integrity controls in the federal exchanges, such as prohibiting key eligibility verification procedures, appears to have created both the incentive and opportunity for individuals and brokers to misstate enrollees' income to place them in benchmark plans receiving the maximum subsidy.

Individuals enrolled in this income cohort nationwide exceed the total number of potentially eligible individuals.[3] This problem appears to be particularly acute in certain states, with some

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[1] Paragon Health Institute, "Expanded PTCs", Glossary, 2024, https://paragoninstitute.org/glossary/expanded-ptcs/.
[2] Congressional Budget Office, "Budgetary Outcomes Under Alternative Assumptions About Spending and Revenues", 2024, https://www.cbo.gov/system/files/2024-05/60114-Budgetary-Outcomes.pdf.
[3] Blase, Brian and Drew Gonshorowski, "The Great Obamacare Enrollment Fraud", Paragon Health Institute, 2024, https://paragoninstitute.org/wp-content/uploads/2024/06/The-Great-Obamacare-Enrollment-Fraud_FOR_RELEASE_V2.pdf.

reporting hundreds of thousands, and, in one case, millions more individuals enrolled in these plans than are reasonably likely to be eligible.[4] More than half of all enrollees in the federal exchange now report incomes between 100 and 150 percent of FPL—notably higher than the historical average of roughly 40 percent—further demonstrating the breadth of the enrollment incongruity.[5]

While individuals may reasonably misestimate their income at any given point, the scale of the problem suggests malicious intent from certain actors involved. There have been documented issues with broker behavior surrounding these "zero-premium" plans, with reports and litigation detailing practices of consumers having their plan switched by such brokers without their consent.[6,7]

Estimates show the cost of improperly enrolled individuals in "zero-premium" plans are $15 billion to $20 billion per year and potentially as high as $26 billion per year. If these estimates are accurate, it implies that these improper payments represent more than half the cost of making the expanded subsidies permanent.[8]

Runaway deficits and debt are threatening to breach historic levels in the next decade, and, by 2054, the cost of simply servicing our national debt will more than double relative to Gross Domestic Product (GDP), crowding out other important national priorities.[9] Given this grave situation, it is critical that the federal government safeguard increasingly scarce resources to ensure that every dollar spent goes as far as possible to improve Americans' wellbeing.

President Biden proposed making the subsidy expansion permanent in his last two budget requests.[10] Given that this expansion is set to expire after 2025, Congress has a timely interest in understanding the scope of potential improper payments and outright fraud within the Obamacare marketplaces. As such, we request that the U.S. Government Accountability Office conduct an investigation and analysis of this issue that includes the following:

- A systemic review of the practices employed by healthcare.gov and state-based exchanges and recommendations to improve eligibility integrity;
- A systemic review of regulatory changes enacted by the Biden administration, such as those impacting eligibility verification and special enrollment periods, that are contributing to improper enrollments;
- A survey of individuals enrolled in "zero-premium" plans to determine what portion of these individuals use or even know that they have been enrolled in their health plan; and,

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[4] Ibid.
[5] Ibid.
[6] Appleby, Julie, "Rising Complaints of Unauthorized Obamacare Plan-Switching and Sign-Ups Trigger Concern", KFF Health News, 2024, https://kffhealthnews.org/news/article/aca-unauthorized-obamacare-plan-switching-concern/.
[7] Appleby, Julie, "Lawsuit Alleges Obamacare Plan-Switching Scheme Targeted Low-Income Consumers", KFF Health News, 2024, https://kffhealthnews.org/news/article/federal-lawsuit-unauthorized-aca-obamacare-plan-enrollment-switching/.
[8] Ibid.
[9] *Id.*
[10] U.S. Department of Health and Human Services, "Fiscal Year 2025: Budget in Brief", 2024, https://www hhs.gov/sites/default/files/fy-2025-budget-in-brief.pdf; U.S. Department of Health and Human Services, "Fiscal Year 2024: Budget in Brief", 2023, https://www hhs.gov/sites/default/files/fy-2024-budget-in-brief.pdf.

- A survey of brokers in targeted states to review enrollment practices with respect to "zero-premium" plans and recommendations to protect against the misstatement of income and enrollment without enrollees' consent.

Thank you for your attention to this request. We stand ready to work with you however possible on this critical issue. We request an initial report on findings no later than December 15, 2024.

The Committee on Energy and Commerce is authorized by Rule X of the Rules of the House of Representatives to conduct oversight of and legislate on matters relating to "[i]nterstate and foreign commerce generally."[11] The Committee on Ways and Means is authorized by Rule X of the Rules of the House of Representatives to conduct oversight of and legislate on matters relating to "[r]evenue measures generally."[12] The Committee on the Judiciary is authorized by Rule X of the Rules of the House of Representatives to conduct oversight of and legislate on matters relating to the "[p]rotection of trade and commerce against unlawful restraints and monopolies."[13]

If you have any questions about this matter, please ask your staff to contact Energy and Commerce Committee staff at (202) 225-3641, Ways and Means staff at (202) 225-3625, or Judiciary Committee staff at (202) 225-6906. Thank you for your attention to this matter.

Sincerely,

Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce

Jason Smith
Chairman
Committee on Ways and Means

Jim Jordan
Chairman
Committee on the Judiciary

cc: The Honorable Frank Pallone, Ranking Member
Committee on Energy and Commerce

The Honorable Richard Neal, Ranking Member
Committee on Ways and Means

The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

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[11] Rules of the U.S. House of Representatives, R. X (2023).
[12] *Id.*
[13] *Id.*