United States Senate
WASHINGTON, DC 20510

September 21, 2010

Via Electronic Transmission

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

Dear Secretary Sebelius,

On July 22, 2010, we sent a letter requesting further information about the claim that "the cumulative impact [of new health insurance regulations] is likely to be less than one percent." We requested a response no later than August 6, 2010, and we have been patient over the past month and a half with the hope that providing additional time would allow for a more thorough response to our questions. However, recent news reports that premiums could rise by more than 20 percent make it more important than ever that we fully understand the assumptions behind your estimates so that the American people have an accurate picture of the impact the new law will have on future health insurance costs.

On September 8, 2010, in an article entitled "Health Insurers Plan Hikes," the *Wall Street Journal* reported that insurers "plan to raise premiums for some Americans as a direct result of the health overhaul in coming weeks." The article reports that provisions in the new health reform law could drive up premiums by as much as 9 percent. When the inflationary impact of the new requirements is added to overall medical inflation, some rates appear likely to rise by more than 20 percent.

On September 9, 2010, in a letter from you to Karen Ignani, President of America's Health Insurance Plans, the assertion is made that the Department's analysis of the new law assumes only a "one to two percent" increase as a result of the new health insurance requirements. This estimate that the new health care law will increase premiums by one to two percent is an admission that the new law not only violates the President's promise that it would lower premiums by $2,500 per family per year, it also appears to underestimate what is occurring in the marketplace in response to the new law. Additionally, the non-partisan Congressional Budget Office estimated the health care law would increase premiums by as much as 10 to 13 percent.

The letter we sent almost two months ago was an attempt to clarify these differences and ensure the American people know exactly how the health care law is going to impact their health care costs. To date, analysis we have seen from experts both in the private and public sectors have concluded that the new health care law will result in increased health care spending and higher premiums. In fact, a new report just released by the Department's own in-house Chief Actuary assumes that health care spending will increase by 6.3 percent annually – or twice the average rate of inflation – through 2019. That is a higher rate of increase than was projected prior to the health care law's passage and means that total U.S. health spending will reach $4.6 trillion by 2019.

Throughout the health reform debate, supporters of the new law made countless promises about how it would bring down overall spending and lower health care costs for individuals, families and employers. Numerous studies, reports, and findings make it clear these promises will not be kept. If the Administration has evidence to the contrary, we urge that it be made publicly available.

We have attached a copy of our original letter, as well as the *Wall Street Journal* article detailing the coming rate increases. We ask again for a response to our request for further information about the Department's analysis of health insurance premiums no later than September 28, 2010.

Sincerely,

Chuck Grassley
Charles E. Grassley
Ranking Member
Committee on Finance

Michael B. Enzi
Ranking Member
Committee on Health, Education, Labor and Pensions

Attachments:

July 22, 2010

Via Electronic Transmission

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

Dear Secretary Sebelius,

As the ranking members of the Finance Committee (Finance) and the Health, Education, Labor and Pensions (HELP) Committee, we share jurisdiction over the newly enacted health reform law. It is, therefore, our responsibility to conduct vigorous oversight of the law's implementation and to help the American people understand how it will affect them. This includes making sure people fully understand the new insurance regulations and the impact these regulations will have on health insurance premiums.

We are supportive of efforts to increase health care access and improve quality. But it is equally important that the public is fully aware of the impact any changes will have on health insurance premiums, especially given the new individual and employer health insurance mandates that will take effect in 2014.

On June 22, 2010, as you were announcing some of the new regulations that will be created as a result of the health reform law, you said the following:

> *"We anticipate that the cumulative impact [of new insurance regulation] is likely to be less than 1 percent. The actuarial studies that our folks have asked to engage in looking at this indicates that while there are clearly some cases where there are lot of expenses, they're relatively few and far between, given the number of people impacted and affected."*

While the regulations issued by the Department of Health and Human Services (HHS/Department) provide some insight into the basis for this claim on premium impact, your statement references "actuarial studies" which would indicate that certified actuaries on your staff or a third-party on behalf of HHS have conducted actuarial analysis, evaluation or assessment of these new insurance regulations that has yet to be shared with the public.

Transparency surrounding the Department's actuarial analysis and studies is particularly important given that your estimate of a 1 percent cumulative impact differs greatly from other actuarial analyses. In fact, one health plan estimated that just one of these new rules could raise premiums for their enrollees by as much as 35 percent. And as you know, the non-partisan Congressional Budget Office (CBO) estimated that millions of Americans who would be ineligible for tax subsidies could see a cumulative increase of 10 to 13 percent as a result of all the insurance reforms in the new law.[1]

By your providing the detailed analysis supporting your estimates and complete answers to our questions, we can better reconcile these differences and give the American people the most accurate projections possible. At a time when there is so much confusion and uncertainty about this sweeping new overhaul of the American health care system, we believe it is important that this analysis be made a matter of public record and, accordingly, we request that the Department provide the following:

(1) Please provide copies of any and all actuarial studies or other materials prepared internally or by any third party at the request of the Department.

(2) Please provide copies of any and all actuarial analyses, assessments, evaluations or reports relating either directly or indirectly to the regulations requiring dependent coverage up to age 26, requiring coverage of preventive services, prohibiting preexisting condition exclusions and rescissions, implementing lifetime and annual limits, and implementing other "patient protections" as well as regulations regarding "grandfathered" health plans. If a third-party on behalf of HHS prepared the analysis, please provide us with their name and contact information as well as whether they are a member of the American Academy of Actuaries.

(3) The Massachusetts Division of Insurance recently released a report that analyzes the impact of that state's health reform law. This report concluded that guaranteeing access to coverage without the use of an open-enrollment period, or similar mechanism, contributed to a 390 percent increase in subscribers who enrolled and terminated their coverage within six months.[2] Regulations issued by the department to implement provisions of the Patient Protection and Affordable Care Act (PPACA) require that beginning with the first plan year on or after September 23, 2010 that health insurance issuers must guarantee issue coverage for children under 19 years of age.

(a) Please indicate whether the Department's analysis took into account this Massachusetts study and concluded that some parents may only enroll children when they are in need of health care services and what impact this would have on premiums. And if so, please provide that analysis.

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[1] Letter from Douglas Elmendorf, Director, Congressional Budget Office, to the Honorable Evan Bayh, United States Senator. Page 4. (November 30, 2009).

[2] Report prepared by Oliver Wyman Actuarial Consulting, Inc., June 2010

(b) Given the new guaranteed issue rules for coverage of children in the individual market, some employers may find it advantageous to drop dependent coverage and encourage employees to enroll their children in an individual policy. As part of your response, please indicate whether the Department's actuarial analysis estimated any reduction in dependent coverage as a result of these regulations. And, if so, please provide this analysis and the results.

(4) Unlike the regulations discussed above (OCIIO–9994–IFC), the regulations released on June 14th related to "grandfathered" health plans (OCIIO–9991–IFC) did not contain information on premiums. The regulation did, however, estimate that as many as 80 percent of small businesses and more than 67 percent of individual purchasers would lose "grandfathered" status by 2013.[3]

(a) Please provide an actuarial estimate of any increase in premiums for individuals and small businesses as a result of losing grandfathered status and provide the complete analysis that forms the basis for this estimate.

(b) Specifically, as part of your response, please indicate how much more a younger, healthier individual in a high-deductible plan that is not eligible for subsidies would be expected to pay in 2013 if their health plan loses grandfathering protections.

Given the importance of these regulations and their sweeping nature, we request that you provide a response no later than August 6, 2010. In cooperating with this request, please note that no documents, records, data or information related to these matters shall be destroyed, modified, removed or otherwise made inaccessible.

We share your commitment to increasing access to health insurance and adopting certain consumer protections, especially in regards to children. We also realize that the overall cost of health insurance is one of the biggest barriers to coverage.

Thank you for your prompt attention to this important matter. Should you have any questions regarding this letter, please contact Andrew McKechnie of Senator Grassley's staff or Katy Spangler of Senator Enzi's staff. All formal correspondence should be sent electronically in PDF format to Kevin_Courtois@finance-rep.senate.gov, and Katie_Adams@help.senate.gov

Sincerely,

Chuck Grassley

Charles E. Grassley
Ranking Member
Committee on Finance

Mike B. Enzi

Michael B. Enzi
Ranking Member
Committee on Health, Education, Labor and Pensions

[3] Federal Register / Vol. 75, No. 116 / Thursday, June 17, 2010 / Rules and Regulations

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HEALTH INDUSTRY

SEPTEMBER 7, 2010

Health Insurers Plan Hikes

Rate Increases Are Blamed on Health-Care Overhaul; White House Questions Logic

By JANET ADAMY

Health insurers say they plan to raise premiums for some Americans as a direct result of the health overhaul in coming weeks, complicating Democrats' efforts to trumpet their signature achievement before the midterm elections.

Insurers say they plan to raise premiums on some Americans due to the health overhaul, complicating Democrats' efforts to trumpet their signature achievement before elections. Janet Adamy and Evan Newmark discuss. Also, Justin Lahart discusses the two-track economy for American business, with global players getting boosts from fast-growing foreign markets, while companies focused on the U.S. market are hamstrung by recession-scarred consumers.

Aetna Inc., some BlueCross BlueShield plans and other smaller carriers have asked for premium increases of between 1% and 9% to pay for extra benefits required under the law, according to filings with state regulators.

These and other insurers say Congress's landmark refashioning of U.S. health coverage, which passed in March after a brutal fight, is causing them to pass on more costs to consumers than Democrats predicted.

Insurers say the law mandates free preventive care that raises premiums. A Maryland man gets a flu shot.

The rate increases largely apply to policies for individuals and small businesses and don't include people covered by a big employer or Medicare.

About 9% of Americans buy coverage through the individual market, according to the Census Bureau, and roughly one-fifth of people who get coverage through their employer work at companies with 50 or fewer employees, according to the Kaiser Family Foundation. People in both groups are likely to feel the effects of the proposed increases, even as they see new benefits under the law, such as the elimination of lifetime and certain annual coverage caps.

Many carriers also are seeking additional rate increases that they say they need to cover rising medical costs. As a result, some consumers could face total premium increases of more than 20%.

While the increases apply mostly to the new policies insurers write after Oct. 1, consumers could be subject to the higher rates if they modify their existing plans and cause them to lose grandfathered status.

The rate increases are a dose of troubling news for Democrats just weeks before an election in which they are at risk of losing their majority in the House and possibly the Senate.

In an interview with WSJ's Alan Murray, Aetna Chairman and CEO Ronald Williams says that a side effect of the health-care reform bill is that costs will increase. He also criticizes leaders in Washington for the demagoguery of his industry that persisted during the health-care debate.

In addition to pledging that the law would restrain increases in Americans' insurance premiums, Democrats front-loaded the legislation with early provisions they hoped would boost public support. Those include letting children stay on their parents' insurance policies until age 26, eliminating co-payments for preventive care and barring insurers from denying policies to children with pre-existing conditions, plus the elimination of the coverage caps.

Weeks before the election, insurance companies began telling state regulators it is those very provisions that are forcing them to increase their rates.

Aetna, one of the nation's largest health insurers, said the extra benefits forced it to seek rate increases for new individual plans of 5.4% to 7.4% in California and 5.5% to 6.8% in Nevada after Sept. 23. Similar steps are planned across the country, according to Aetna.

Regence BlueCross BlueShield of Oregon said the cost of providing additional benefits under the health law will account on average for 3.4 percentage points of a 17.1% premium rise for a small-employer health plan. It asked regulators last month to approve the increase.

In Wisconsin and North Carolina, Celtic Insurance Co. says half of the 18% increase it is seeking comes from complying with health-law mandates.

The White House says insurers are using the law as an excuse to raise rates and predicts that state regulators will block some of the large increases.

"I would have real deep concerns that the kinds of rate increases that you're quoting... are justified," said Nancy-Ann DeParle, the White House's top health official. She said that for insurers, raising rates was "already their modus operandi before the bill" passed. "We believe consumers will see through this," she said.

Previously the administration had calculated that the batch of changes taking effect this fall would raise premiums no more than 1% to 2%, on average.

After Regence mailed a letter notifying plan administrators of its intention to raise group insurance rates in Washington state, the White House contacted company officials and accused them of inaccurately justifying the increase. Kerry Barnett, executive vice president for Regence BlueShield, said the insurer is changing the letter to more precisely explain the causes of the increase.

The industry contends its increases are justified. "Anytime you add a benefit, there are increased costs," said Karen Ignagni, president of America's Health Insurance Plans, the industry's lobbying group.

Massachusetts, which enacted universal insurance coverage several years ago, also has seen steadily rising insurance premiums since then. Proponents of that plan attribute the hikes there to an overall increase in medical costs, while insurers cite it as a cautionary example of what can happen when new mandates to improve benefits aren't coupled with a strong enough provision to force healthy people to buy coverage.

Republicans, who have sought voter support by opposing the health law, say premium increases could help in November's congressional races. "People are finding out what's in [the law], they don't like it, and I think it's going to play a big factor in this election," said Iowa Sen. Charles Grassley, the top Republican on the Senate Finance Committee.

About half of all states have the power to deny rate increases. Ms. DeParle pointed out that the law awards states $250 million to bolster their scrutiny of insurance-rate proposals, saying that will eventually curb premiums for people.

"In Kansas, I don't have a lot of authority to deny a rate increase, if it is justified," said Kansas Insurance Commissioner Sandy Praeger. She recently approved a 4% increase by Mennonite Mutual Aid Association to pay for the new provisions in the health law.

The process of reviewing rate increases varies by state. For instance, Ms. Praeger said she can deny only rate increases that are unreasonable or discriminatory.

Some regulators say not all insurers have adequately justified their increases. "A lot of it is guesswork for companies," said Tom Abel, supervisor at the Colorado Division of Insurance. "I was anticipating the carriers to be more uniform."

Regence BlueCross BlueShield of Oregon, which estimates its increase covers 57,000 members, said its goal is to "anticipate the financial needs of our members as accurately as possible and to collect just enough premiums to cover costs," said a spokeswoman. Other insurers offered similar explanations or declined to discuss their increases.

A small number of insurers have submitted plans to lower rates and cite the new mandates in the legislation as the reason. HMO Colorado, a Blue Cross Blue Shield plan owned by WellPoint

Inc., submitted a letter to state regulators saying small group rates would fall 1.8% starting Oct. 1 because of changes from the law.

Democrats had hoped to sell the bill in the fall elections. But in recent weeks, some Democrats who voted for the bill have shied away from advertising that fact, while the handful of House Democrats who cast "no" votes see it as a potential boost to their re-election bids.

"I think it's a question of short term versus long term," said North Carolina Insurance Commissioner Wayne Goodwin, a Democrat up for re-election in 2012. "Thankfully we're seeing people get more coverage and protections than they've ever had before. But until we see the medical-cost inflation affected, you're likely to see rate increases as long as they are not excessive and in violation of the law."