

United States Senate
OFFICE OF THE REPUBLICAN LEADER

May 27, 2014

Mr. Daniel Levinson
Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
330 Independence Avenue, SW
Washington, D.C. 20201-0003

Dear Mr. Levinson:

As your office prepares the report to Congress mandated by Section 1001 of Public Law 113-46, we write to call your attention to several recent statements indicating that Secretary Sebelius may have incorrectly certified that the American Health Benefit Exchanges verify that individuals receiving tax credits and cost sharing assistance are actually eligible to receive those subsidies from the taxpayers.

We have long been concerned that Obamacare, with its complex eligibility process and access to enormous taxpayer resources, presents a grave risk for improper, inaccurate, and even fraudulent payments. Those concerns were further heightened last summer when the Department of Health and Human Services (HHS) issued regulations that would permit individuals to self-attest to their eligibility for subsidies under certain circumstances.

In response to these concerns, we worked to enact legislation (Section 1001 of Public-Law 113-46) requiring the Secretary of HHS to certify that exchanges will verify that applicants for tax credits and cost-sharing subsidies are eligible for this assistance before it is released. Secretary Sebelius certified to the Congress that this would be the case in a letter dated January 1, 2014, and detailed a number of measures that were supposed to be in place to protect the taxpayer. As you know, the statute also calls upon the HHS Inspector General to issue a report by July 1st of this year evaluating the effectiveness of these procedures and safeguards to prevent improper payments.

Unfortunately, a growing body of information suggests that the Secretary's certification was either premature or entirely incorrect. Recent reports in *The Washington Post* and testimony from the Treasury Inspector General for Tax Administration (TIGTA) indicate that many of the systems needed to ensure verification are not built, not used, and therefore not working as promised.

On May 16th, *The Washington Post* reported that "the government may be paying incorrect subsidies to more than 1 million Americans for their health plans in the new federal insurance marketplace" in large part because, "the federal computer system at the heart of the insurance marketplace cannot match this proof with the application because that capability has yet to be built." The article went on to cite internal documents noting that there were four million discrepancies between material submitted by applicants and information on file with various government agencies, with 1.1 to 1.5

million of those due to discrepancies in income. The article also notes that the administration only recently began enhanced efforts to resolve these problems.

Similarly, the Treasury Inspector General for Tax Administration testified before the Senate Appropriations Committee on April 30th that some of the information technology systems needed to prevent improper or fraudulent payments had not been completed, tested, or deployed:

TIGTA is concerned that the potential for refund fraud and related schemes could increase as a result of processing ACA Premium Tax Credits unless the IRS builds, implements, updates, and embeds ACA predictive analytical fraud models into its tax filing process. The IRS has developed a plan to prevent, detect, and resolve fraud and abuse during ACA tax return processing. The plan, when fully developed and implemented, is designed to leverage third-party reporting from the Exchanges and new computer analytical capability built into the Return Review Program.

The IRS informed us that two new systems are under development that will address Affordable Care Act tax refund fraud risk. However, until these new systems are successfully developed and tested, TIGTA remains concerned that the IRS's existing fraud detection system may not be capable of identifying Affordable Care Act refund fraud or schemes prior to the issuance of tax refunds.

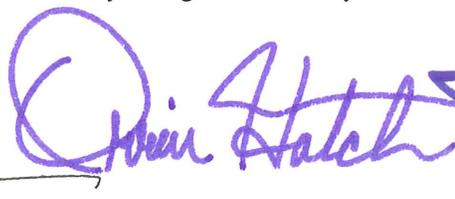
These reports call into serious question the veracity of the Secretary's certification that Exchanges will accurately verify an applicant's eligibility for subsidies before they were issued. It seems highly unlikely that the Secretary could accurately certify that systems were in place to verify the accuracy of applicant information, when in fact these systems had not been fully developed, tested, and deployed.

As you prepare your report for release by July 1st, we would strongly encourage you to examine the reports cited above when evaluating the effectiveness of the procedures and safeguards the Secretary certified. Whatever one's opinion of Obamacare, the American public deserves to know that their tax dollars are allocated appropriately and that public officials take their responsibility to accurately and faithfully apply the laws enacted by Congress seriously.

Sincerely,



Republican Leader



Ranking Member,
Senate Committee on Finance



Ranking Member,
Senate Committee on
Homeland Security and
Government Affairs