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February 3, 2014

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

Dear Secretary Sebelius:

We remain concerned about the Obama administration's regulatory efforts related to Taft-Hartley health insurance plans (Taft-Hartley plans) and the *Patient Protection and Affordable Care Act* (PPACA).¹ Our concerns are heightened by the Department of Health and Human Services' (HHS) failure to respond to the committee's previous oversight request on this issue. We again request information regarding the administration's efforts to provide preferential treatment to Taft-Hartley plans.

As you know, Taft-Hartley health care plans are created by collective bargaining agreements and administered by a joint board of trustees composed equally of management and labor representatives. On December 2, 2013, HHS issued proposed regulations on the notice of benefit and payment parameters for 2015. The regulations included a proposal to exempt self-administered, self-insured plans from the temporary reinsurance fee in 2015 and 2016.² This fee, paid by health insurance issuers and self-insured plans with third-party administrators, will provide reinsurance payments to health insurance issuers covering high-risk individuals in the individual market.

Little data exists on the number of self-insured employers who also self-administer their plans. However, it is generally understood that many self-insured Taft-Hartley plans are self-administered, indicating unions will receive a special exemption from the law's mandates that is not available to most Americans.

¹ Pub. L. No. 111-148 (2010) [hereinafter PPACA].

² Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2015, 73 Fed. Reg. 72321 (Dec. 2, 2013) available at: <https://www.federalregister.gov/articles/2013/12/02/2013-28610/patient-protection-and-affordable-care-act-hhs-notice-of-benefit-and-payment-parameters-for-2015>.

On December 3, 2013, we requested information about the administration's plans to provide special treatment to self-insured, self-administered Taft-Hartley plans.³ For more than a month the committee has awaited answers to its inquiry.⁴ To date, the only response from HHS has been an acknowledgement that the letter was received.

We understand the desire of union leaders to prevent PPACA from hurting their members as it has already harmed millions of Americans. However, trying to sustain a fatally flawed law through administrative actions that bypass Congress merely exacerbates the difficult challenges being imposed on workers, job creators, and families.

To ensure the administration is applying PPACA consistent with law, it is critical the Committee on Education and the Workforce be provided complete, meaningful, and timely responses to our oversight requests. Please provide the following no later than **February 18, 2014**:

1. All legal analyses, documents, and communications relating to the drafting of the proposed rule "*Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2015*" as it relates to providing transitional reinsurance fee exemptions.
2. All legal analyses prepared by HHS or provided to HHS concerning the treatment of Taft-Hartley plans under PPACA.
3. All documents and communications relating to allowing individuals eligible for Taft-Hartley plans to receive premium tax credits, transitional reinsurance fee exemptions, or other special treatment.
4. All documents and communications between HHS and other federal agencies, including, but not limited to, executive offices within the White House, relating to the eligibility of individuals eligible for Taft-Hartley plans to receive premium tax credits, transitional reinsurance fee exemptions, or other special treatment.
5. A list of all individuals, organizations, unions, White House staff, and administration staff from whom you or your staff received communications regarding allowing individuals eligible for Taft-Hartley plans to be eligible for premium tax credits, transitional reinsurance fee exemptions, or other special treatment.
6. A list of all individuals, organizations, unions, White House staff, and administration staff with whom you and/or your staff have met regarding allowing individuals eligible

³ Letter from the Hon. John Kline, Chairman, H. Comm. on Education and the Workforce, and the Hon. Phil Roe, Chairman, Subcomm. on Health, Employment Labor, and Pensions, to the Hon. Kathleen Sebelius, Sec'y, U.S. Dep't of Health and Human Services (Dec. 3, 2013) *available at*: http://edworkforce.house.gov/uploadedfiles/12-03-13_letter_hhs_taft_hartley.pdf

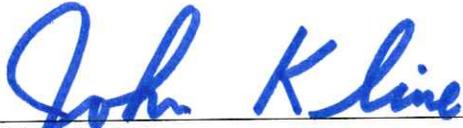
⁴ In its Dec. 3, 2013 letter, the committee requested a response by no later than Dec. 17, 2013.

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for Taft-Hartley plans to be eligible for premium tax credits, transitional reinsurance fee exemptions, or other special treatment.

If you are unable to provide the requested information by the date specified, please inform the committee in writing why you cannot meet the deadline, and the date by which you will provide the requested information. If you have additional questions or comments, please contact Molly Conway or Joe Wheeler of the committee staff at (202) 225-7101.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



PHIL ROE
Chairman
Subcommittee on Health, Employment,
Labor, and Pensions

Enclosure

CC: The Honorable George Miller, Senior Democratic Member, Committee on Education and the Workforce