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**RE: U.S. House Energy and Commerce Subcommittee on Health:
Hearing on Health Insurance Exchange Implementation and Medicaid Expansion**

Today, the House Energy & Commerce Subcommittee on Health held a hearing to spotlight health exchange implementation as well as the Medicaid expansion enacted under the Patient Protection & Affordable Care Act (PPACA). The hearing, entitled “State of Uncertainty: Implementation of PPACA’s Exchanges and Medicaid Expansion”, underscored the complexity of the law and many states’ refusal to move forward with implementation. The hearing’s timing was especially appropriate since tomorrow is the deadline for states to declare whether or not they will run their own health insurance exchange.

Subcommittee Vice Chairman Michael Burgess (R-TX) presided over the hearing and was joined on the Republican side at various points by Reps. Shimkus (R-IL), Cassidy (R-LA), Murphy (R-PA), Griffith (R-VA), Lance (R-NJ), Blackburn (R-TN) and Latta (R-OH). Reps. Pallone (D-NJ), Waxman (D-CA), Baldwin (D-WI), Dingell (D-MI), DeGette (D-CO), Capps (D-CA), Engel (D-NY), Sarbanes (D-MD), Matheson (D-UT) and Delegate Christensen (D-Virgin Islands) were in attendance for the Democrats.

Members giving opening statements were Reps. Burgess, Cassidy, and Gingrey for the Republicans and Reps. Pallone, Dingell, Waxman and Baldwin for the Democrats. Republicans hit issues such as the high cost of the PPACA, both for states and the federal government, as well as lack of guidance from the Department of Health and Human Services (HHS) to allow stakeholders to make informed decisions on how to proceed with implementation. Rep. Cassidy also cited a report from McKinsey & Company that concluded 30% of employers will do away with their employer sponsored plans in 2014 and instead have employees enroll through exchanges. The Democrats consistently made the point that the health care law’s opponents

should realize that the PPACA is the law of the land and stop trying to repeal or delay implementation.

Below is the list of witnesses (as well as a link to their testimony and Committee background materials):

<http://energycommerce.house.gov/hearing/state-uncertainty-implementation-ppacas-exchanges-and-medicaid-expansion#video>

Mr. Gary Cohen, Director of the Center for Consumer Information and Insurance Oversight (CCIIO)

Ms. Cindy Mann, CMS Deputy Administrator/Director, Center for Medicaid and CHIP Services

Mr. Bruce Greenstein, Secretary, Louisiana Department of Health & Hospitals

Mr. Dennis Smith, Secretary, Wisconsin Department for Health Services

Mr. Gary Alexander, Secretary, Pennsylvania Department of Public Welfare

Mr. Joshua Sharfstein, M.D., Secretary, Maryland Department of Health & Mental Hygiene

Mr. Andrew Allison, Ph. D., Director, Arkansas Division of Medical Services

In Mr. Cohen's opening statement, he emphasized on two occasions that exchanges will be open in every state and ready for open enrollment in October 2013. He said this despite the fact that it is now clear that, due to so many states refusing to establish their own exchanges, the federal government will have at least some role in approximately 2/3rd of states (either through a partnership model or a federally-facilitated exchange). Cohen stated that the federal government has made "significant" progress in the information and technology infrastructure needed to run federal exchanges, and are working hard to establish protocols for processes such as subsidy eligibility services as well as many other areas. He also emphasized that states can always change their minds and create their own exchange in 2015 and beyond (after a 1 year waiting period).

Cindy Mann's testimony revolved around the Medicaid expansion and how it fills in the gaps in coverage in the existing Medicaid program. She touched on the Supreme Court's decision to strike down the federal government's power to enforce the expansion on states, but did not seem to think it would reduce the impact of the law. This testimony comes on the heels of the announcement by the Administration that states will receive no federal funding for a partial expansion of Medicaid eligibility.

The rest of the witnesses were officials from various state health departments. Officials from Louisiana, Wisconsin and Pennsylvania laid out the many serious issues with the law and its implementation in states, mostly revolving around the huge costs of both setting up an exchange as well as the Medicaid expansion. Mr. Alexander, when speaking about the "generous" federal matching funds of 90% under the law to entice states to expand Medicaid to 133% of poverty, said that "10% of a huge number is still a huge number". In addition, these state officials complained of the lack of information from the federal government to allow them to make informed decisions, as well as mandated programs that would duplicate efforts they've already made on the state level. Mr. Sharfstein of Maryland was much more positive about the law and testified that Maryland is on track to comply with implementation dates. Mr. Allison of Arkansas discussed almost exclusively his state's consideration of the Medicaid expansion.

The Q&A portion of the hearing held a few interesting moments but mostly delved into the minutia of the Medicaid expansion. Democrats such as Waxman and Pallone continued to hit the theme that the PPACA is the law of the land and that Republicans should live with it. Burgess asked Mr. Cohen if much of the guidance on the PPACA of late was withheld over the summer for political reasons, to which Mr. Cohen demurred. Rep. Shimkus asked the state health officials about the 3.5% fee HHS recently proposed on health plans in the federal exchange to cover administrative costs—he asked if this cost would be passed along to consumers, to which each responded in the affirmative. Rep. Cassidy said that premiums have risen by \$2,500 on average since the law was passed. He also delved into the negative effects of the law's Medical Loss Ratios.

Also in the Q&A portion, Rep. Matheson touched on several subjects, such as the HIT premium tax on insurers and how to provide uninterrupted coverage for low-income individuals with income fluctuations (who will bounce between Medicaid eligibility and premium subsidies through exchanges, etc.). He also talked about Multi-State Exchanges where a group of states band together, and asked Mr. Cohen if states in such an exchange would retain their ability to regulate their own state insurance markets. To this Mr. Cohen replied that in general, states will have much more control if they run their own exchange. He gave the example of a state being able to determine how its exchange is funded if it runs its own. Of course, this is the reason why IIABA has advised states to move forward with their own exchanges.

We can expect the Obama Administration to continue issuing guidance on the PPACA over the coming months and Big "I" government affairs staff will continue to keep you informed. Please don't hesitate to contact Ryan Young if you have any questions concerning this hearing.