FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115

Majority (202) 225–2927
Minority (202) 225–3641

January 20, 2011

Mr. Jay Angoff
Director
The Center for Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20221

Dear Director Angoff:

Pursuant to Rules X and XI of the United States House of Representatives, the Committee on Energy and Commerce is examining the operations and programs of the Center for Consumer Information and Insurance Oversight (CCIIO)[1].

We note the Department of Health and Human Services (HHS) created your office to implement the provisions of the Patient Protection and Affordable Care Act (PPACA) that address private health insurance. Because millions of Americans rely on the private insurance market for health care coverage and will be affected substantially by the actions of your office, there is substantial public interest in information about the CCIIO.

Recent events also demonstrate the need for increased oversight. While the CCIIO was originally established within the office of the Secretary of HHS, Secretary Sebelius recently informed the Congress that it would be relocated to the Centers for Medicare and Medicaid Services (CMS). In her January 5, 2011, letter to Chairman Harold Rogers of the Committee on Appropriations, Secretary Sebelius stated that the move would both save money and improve efficiency while placing the office in the hands of those with "the best resources, in terms of expertise and administrative processes." While these are laudable goals, the movement of the CCIIO to CMS also raises an important question: why was the CCIIO created in the Office of the Secretary only to be transferred to CMS a few months later?

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[1] The CCIIO was originally known as the "Office of Consumer Information and Insurance Oversight." For the purposes of this letter and document request, we will use the term CCIIO to refer to all versions of the entity, both before and after the name change.

Most troubling is that your office is currently responsible for deciding who does not have to comply with the massive new regulations imposed by the PPACA. Currently your office has approved waivers from the PPACA's annual limits requirements for 222 applicants. In a November 30, 2010, meeting with Ranking Minority Member Michael Burgess, you stated that your office had also denied waiver requests. We would appreciate if your office would explain how a decision is made on whether compliance with the PPACA is necessary.

To assist the Committee in understanding the role of the CCIIO, we request that you provide the following information and documents within two weeks of the date of this letter:

1. Identification of the section in the PPACA that authorizes the creation of the CCIIO, including the amount of money authorized for its operation. All documents or internal communications, including e-mail, between all individuals responsible for creating the CCIIO discussing the establishment and future operations of the potential office.

2. An explanation of the structure and budget of the CCIIO. List the individuals employed by the CCIIO, including names, titles, job requirements, and salary. A detailed description or visual representation of the structure of the office that details any sections, divisions, responsibilities and hierarchies. A detailed budget that includes all monies spent since the office's inception and future spending for one year.

3. A list of every individual, organization, business, state or any other entity that has:
   a. Requested a waiver or exemption from complying with any part of the PPACA.
   b. Obtained a waiver or exemption from complying with any part of the PPACA.
   c. Been denied a waiver or exemption from complying with any part of the PPACA.

4. All documents relating to the granting of waivers or exemptions from complying with any part of the PPACA. All communications, including e-mail, between any individual associated with the CCIIO discussing waivers or exemptions for any applicant, including both internal communications between CCIIO representatives and communications CCIIO representatives had with applicants.

5. All documents relating to the denial of waivers or exemptions from complying with any part of the PPACA. All communications, including e-mail, between any individual associated with the CCIIO discussing waivers or exemptions for any denied applicant, including both internal communications between CCIIO representatives and communications CCIIO representatives had with applicants.

6. Any other documents relating to waivers or exemptions from the PPACA granted or denied. Provide all communications, including e-mail, between CCIIO representatives discussing waivers or exemptions either internally or with a third party not a part of the CCIIO.

7. All documents and internal discussions, including e-mail, on the decision to move the CCIIO from HHS to CMS.

An attachment to this letter provides additional information on how to respond to the Committee's request. If you have any questions regarding this request, please contact Mr. Sean Hayes with the Committee staff at (202) 225-2927.

Sincerely,

Fred Upton
Chairman

Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Henry A. Waxman
Chairman

Attachment

RESPONDING TO COMMITTEE DOCUMENT REQUESTS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions when possible. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

12. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

13. All documents should be bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

14. Two sets of the documents should be delivered to the Committee, one set to the majority staff in Room 316 of the Ford House Office Building and one set to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee staff regarding the method of delivery prior to sending any materials.

15. In the event that a responsive document is withheld on any basis, you should provide the following information concerning any such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document.

16. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

17. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the

Committee, identified in a privilege log provided to the Committee, as described in (15) above, or identified as provided in (10) above.

DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "document" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

3. The term "communication" means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, discussion, release, personal delivery, or otherwise.

4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might

otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

7. The terms “you” or “your” mean and refers to

For government recipients:

“You” or “your” means and refers to you as a natural person and the United States [name of department or agency of addressee] (the “[Entity]”) and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on behalf or under the control or direction of the [Entity]; and includes any other person(s) defined in the document request letter.

For private recipients:

"You" or "your" means and refers to you as a natural person and the [non-governmental entity] (“[Entity]”) and any of its subsidiaries, affiliates, divisions, departments, officers, directors, employees, attorneys, agents, advisors, consultants, or any other persons acting on behalf or under the control or direction of [Entity].]