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3 HEARING ON ``TERMINATION OF INDIVIDUAL HEALTH POLICIES BY

4 INSURANCE COMPANIES''

5 Tuesday, June 16, 2009

6 House of Representatives,

7 Subcommittee on Oversight and Investigation

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The subcommittee met, pursuant to call, at 10:08 a.m.,
11 in Room 2123 of the Rayburn House Office Building, Hon. Bart
12 Stupak (chairman of the subcommittee) presiding.

13 Members present: Representatives Stupak, Braley,
14 Schakowsky, Green, Sutton, Dingell, Waxman (ex officio),
15 Walden, Deal, Burgess, Gingrey and Barton (ex officio).

16 Staff present: Karen Lightfoot, Communications
17 Director, Senior Policy Advisor; Theodore Chuang, Chief
18 Oversight Counsel; Mike Gordon, Deputy Chief Investigative

19 Counsel; Scott Schloegel, Investigator, Oversight and
20 Investigations, Daniel Davis, Professional Staff Member; Ali
21 Golden, Investigator; Jennifer Owens, Special Assistant;
22 Jennifer Berenholz, Deputy Clerk; Lindsay Vidal, Special
23 Assistant; Julia Elam, Fellow; Paul Jung, Public Health
24 Service Detailee; Karen Christian, Counsel; Krista
25 Rosenthall, Counsel; Alan Slobodin, Chief Counsel for
26 Oversight; and Sean Hayes, Counsel.

|
27 Mr. {Stupak.} This meeting will come to order.

28 Today we have a hearing entitled ``Terminations of
29 Individual Health Policies by Insurance Companies.'' The
30 chairman, the ranking member and the chairman emeritus will
31 have 5 minutes for an opening statement. Other members of
32 the subcommittee will be recognized for 3 minutes.

33 Before we begin, I am going to ask unanimous consent
34 that the contents of our document binder be entered into the
35 record provided that the committee staff may redact any
36 information that is business proprietary, relates to privacy
37 concerns or is law enforcement-sensitive. Without objection,
38 the documents will be entered into the record and we will ask
39 that a copy of our document binder be placed at the front
40 table in case witnesses wish to refer to it.

41 I am going to begin opening statements. I will start
42 with my opening statement for 5 minutes.

43 Every night across America, more than 45 million
44 Americans go to sleep without health insurance coverage.
45 They do so in fear of a nightmare scenario of developing a
46 catastrophic illness and being unable to pay for treatment.
47 It is this fear that has caused many hardworking Americans
48 who are not covered by an employer or government-sponsored
49 health care plan to purchase individual health insurance

50 policies. But those Americans fortunate enough to afford
51 individual health care coverage are not immune from the
52 nightmare scenario. That is because a practice called health
53 insurance rescission.

54 Here is what happened to one victim of rescission. Otto
55 Raddatz was a 59-year-old restaurant owner from Illinois who
56 was diagnosed with an aggressive form of non-Hodgkin's
57 lymphoma, a cancer of the immune system. He underwent
58 intensive chemotherapy and was told that he had to have a
59 stem cell transplant in order to survive. With coverage
60 provided by his individual insurance policy, he was scheduled
61 to have the procedure performed. But then his insurance
62 company suddenly told him it was going to cancel his
63 insurance coverage. Otto could not pay for the transplant
64 without health insurance. The stem cell transplant surgery
65 was cancelled. The insurance company told him that it found
66 when he applied for his insurance, he had not told the
67 company about a test that had shown that he might have
68 gallstones and an aneurysm, or weakness of the blood vessel
69 wall. In fact, Otto's doctor had never told him about these
70 test results. He didn't have any symptoms, and these
71 conditions did not have anything to do with his cancer, but
72 the insurance company was going to rescind his policy,
73 effectively tearing up the contract as if it never happened

74 and it would not pay for his stem cell transplant.

75 Otto made a desperate plea to the Illinois Attorney
76 General's Office seeking help to get his insurance company to
77 reverse its decision. He told them, and I quote, ``I was
78 diagnosed with non-Hodgkin's lymphoma. It is a matter of
79 extreme urgency that I receive my transplant in 3 weeks.
80 This is an urgent matter. Please help me so I can have my
81 transplant scheduled. Any delay could threaten my life."
82 The Illinois Attorney General's Office launched an
83 investigation, confirmed that Otto's doctor had never even
84 told him about the test findings and sent two letters to
85 press the insurance company to reinstate his policy. The
86 company relented and Otto received his stem cell transplant.
87 He was able to live 3 more years before passing away earlier
88 this year.

89 Otto was one of the lucky ones. This committee has
90 concluded an investigation into the practice of health
91 insurance rescission and results are alarming. Over the past
92 5 years almost 20,000 individual insurance policyholders have
93 had their policies rescinded by three insurance companies who
94 will testify today: Assurant, United Health Group and
95 WellPoint. From a review of case files, the committee has
96 identified a variety of abuses by insurance companies
97 including conducting investigation with an eye toward

98 rescission in every case in which a policyholder submits a
99 claim relating to leukemia, breast cancer or any of a list of
100 1,400 serious or costly medical conditions, rescinding
101 policies based on an alleged failure to disclose a health
102 condition entirely unrelated to the policyholder's current
103 medical problem, rescinding policies based on policyholder's
104 failure to disclose a medical condition that their doctors
105 never told them about, rescinding policies based on innocent
106 mistakes by policyholders in their applications, and
107 rescinding coverage for all members of a family based on a
108 failure to disclose medical condition of one family member.

109 The investigation has also found that at least one
110 insurance company, WellPoint, evaluated employee performance
111 based in part on the amount of money its employees saved the
112 company through retroactive rescissions of health insurance
113 policies. According to documents obtained by the committee,
114 one WellPoint official was awarded a perfect score of five
115 for exceptional performance based on having saved the company
116 nearly \$10 million through rescissions. These practices
117 reveal that when an insurance company receives a claim for an
118 expensive lifesaving treatment, some of them will look for a
119 way, any way, to avoid having to pay for it. This is eerily
120 similar to what we found last year in our investigation of
121 long-term-care health insurance policies where unscrupulous

122 salespeople would sell policies to seniors, then change or
123 revoke the policies once the enrollee was locked into a plan
124 and making payments.

125 The companies who engage in these rescission practices
126 argue that they are entirely legal, and to an extent, they
127 are, but that goes against the whole point of insurance.
128 When times are good, the insurance company is happy to sign
129 you up and take your money in the form of premiums but when
130 times are bad and you are afflicted with cancer or some other
131 life-threatening disease, it is supposed to honor its
132 commitment and stand with you in your time of need. Instead,
133 some of these companies use a technicality to justify
134 breaking its promise at a time when patients are too weak to
135 fight back.

136 I would also like to mention and compliment the staff on
137 their supplemental information regarding the individual
138 health insurance market. It is attached to my opening
139 statement and will be part of the record.

140 Today we will hear from victims of this practice of
141 rescissions as well as three of the leading companies that
142 engage in it. We hope to learn more about this problem so
143 that we in Congress perhaps through a comprehensive national
144 health care reform bill can curb abuses and put an end to
145 this unconscionable practice once and for all.

146 [The prepared statement of Mr. Stupak follows:]

147 ***** COMMITTEE INSERT *****

|
148 Mr. {Stupak.} I would next like to now turn to my
149 ranking member, Mr. Walden from Oregon, for an opening
150 statement, please.

151 Mr. {Walden.} Thank you, Mr. Chairman. Before I give
152 my opening statement, I just want to clarify something. You
153 indicated in your opening statement you do plan to put this
154 supplemental information in the record?

155 Mr. {Stupak.} Yes, sir. I am going to attach it as
156 part of my opening statement. This is the supplemental
157 information regarding the individual health insurance market
158 dated June 16. I realize a lot of members haven't had time
159 to look at it. I know they were putting it together last
160 night. In the last couple days they went through about
161 50,000 pages, and it just helps members for questioning so I
162 wanted to put it in there because it is supplemental, and
163 members can use it in questioning witnesses.

164 Mr. {Walden.} Okay. I misunderstood what you were
165 saying then. I thought you told me you weren't going to put
166 it in since the minority didn't see this until 9:20 this
167 morning.

168 Mr. {Stupak.} Right. I wasn't going to put it in as
169 part of the document binder so I will put it as part of my
170 opening statement and then it is attributable to me and the

171 majority side and not the minority side, because as you had
172 indicated, it is on committee stationery and Mr. Barton had
173 not had time to see it so I did not want to say that Mr.
174 Barton approved so I just made it part of my opening
175 statement.

176 Mr. {Walden.} I appreciate that.

177 Mr. {Stupak.} Thank you.

178 Mr. {Walden.} I hope in the future we can work those
179 things out in advance as we have in most hearings in the
180 past.

181 Mr. {Stupak.} I agree.

182 Mr. {Walden.} Today's hearing is the second in a series
183 of hearings investigating the individual health insurance
184 market. Approximately 16 million Americans have individual
185 health insurance policies. Once people apply and are issued
186 their insurance cards, they breathe a sigh of relief and
187 figure their health care is covered. Unfortunately, that
188 sigh of relief may turn into a frenzied panic if the Friday
189 before the Monday a patient is to undergo a double mastectomy
190 she receives a call from her insurance company saying her
191 insurance has been cancelled and they will no longer pay any
192 claims. This is what happened to one of our witnesses here
193 today, Ms. Robin Beaton from Texas, Ranking Member Barton's
194 constituent. We will also hear from Mrs. Horton and Mrs.

195 Raddatz where the threat or actual termination of insurance
196 policies caused pain, frustration and great expense.

197 While we may be here to discuss valid uses for and
198 procedural aspects of rescissions, medical underwriting and
199 other corporate practices, there are some actions we should
200 no longer allow insurance companies to do. Playing gotcha
201 with policyholders who have serious illnesses and huge
202 expenses must stop. Insurance companies cannot wait until
203 customers are sick or filing claims to verify their medical
204 history and decide whether or not they want them as a
205 customer. This is what they are supposed to be doing when
206 they sign the member up. If the company does not conduct a
207 review of unclear or incomplete information on the
208 application, then the plan should not use subsequently
209 acquired information as a basis for rescinding coverage.
210 This practice is known as post-claims underwriting. The
211 company should conduct its due diligence at the time the
212 application is filled out and submitted prior to issuing
213 coverage. Rescission should not be a license to find
214 loopholes by investigating someone's medical history whenever
215 they file a claim well after being accepted for coverage, not
216 if the company hurried through the application process, not
217 if the company blindly accepted most applicants and not if
218 the company gladly collected their money with no questions

219 asked. This is inappropriate and it should be stopped.

220 I understand that companies just like the federal
221 government need ways to protect themselves from insurance
222 fraud, which does occur. Some applicants willfully lie on
223 the application to get insurance and pay lower premiums.
224 This increases the cost of coverage for the insurers and
225 other policyholders. When a company discovers this behavior
226 and believes rescission is the appropriate action, the burden
227 must rest on the insurer. The company should prove the
228 insured failed to disclose material information that he or
229 she was aware of at the time of the contract that would have
230 resulted in different contracts altogether. After all, the
231 company has the money, employees and resources to meet that
232 burden. They are the ones making the assertion and they are
233 the ones ultimately denying the coverage. It is not enough
234 for companies just to send a letter to the insured stating
235 that an investigation into their file has begun, and if they
236 choose to send in any additional information to the company.
237 The company needs to attempt to communicate directly with the
238 insured, his or her doctor and review all pertinent
239 information to prove the insured did make a material
240 misstatement.

241 The majority requested all cases files that resulted in
242 rescission in 2007 in four States. For United, this was 206

243 case files, for Assurant, this was 321 case files, and for
244 WellPoint, this was 742 case files. To date, the committee
245 has received more than 650 of these case files. My staff had
246 the opportunity to review several of these files including
247 working all weekend. In some, there is documentation or
248 evidence that the insured intentionally withheld pertinent
249 medical information that would have affected their coverage.
250 In others, it is unclear whether the applicant was even aware
251 of the condition or notation cited by an investigator in an
252 old medical chart as evidence to rescind.

253 Today three individual policyholders will explain their
254 stories and illustrate how they were unaware of conditions,
255 symptoms or other possible diagnoses that were written in a
256 medical chart but never expressed to the patient. So you
257 have to ask yourself, can a person make a material omission
258 or a misstatement if he or she was not aware of a fact? I
259 don't think so. But if I am wrong, I want the companies to
260 explain it to me.

261 In 2008 and 2009, these companies entered into
262 settlement agreements with rescinded policyholders and
263 providers in sums topping tens of millions of dollars. Some
264 of the companies remain in litigation with other rescinded
265 policyholders. I also recognize some of these companies have
266 initiated internal reforms. These include steps to improve

267 their application process, improve communication with the
268 insured during the investigation and rescission process and
269 offer independent third-party review of rescission decisions
270 if requested by the policyholder.

271 I want to know what appropriate actions Congress can
272 take and what else these companies can do better to ensure
273 that all Americans have access to health care coverage.
274 Health care reform is coming and we need to have a better
275 understanding of the individual health insurance market and
276 its practices. We need to figure out first and foremost how
277 to make qualify health insurance affordable and reliable
278 while keeping protections in place to combat insurance fraud.
279 I hope that as this process moves forward we work in a
280 bipartisan way to design a system that achieves the ultimate
281 goal of getting those who need medical care the attention
282 they need. Thank you.

283 [The prepared statement of Mr. Walden follows:]

284 ***** COMMITTEE INSERT *****

|
285 Mr. {Stupak.} Thank you, Mr. Walden.

286 Mr. Waxman for an opening statement, please.

287 The {Chairman.} Thank you very much, Mr. Chairman.

288 Today we are going to hear the results of a yearlong
289 Congressional investigation into abuses in the individual
290 insurance market. We began this investigation last year when
291 I served as chairman of the House Oversight Committee and we
292 continued it this year with Chairman Stupak's leadership as
293 the chairman of the Oversight Subcommittee of Energy and
294 Commerce. As part of this investigation, we conducted a 50-
295 State survey of insurance commissioners and we sent document
296 requests to some of the largest companies that offer
297 individual health insurance. We received more than 116,000
298 pages of documents and our staff talked with many
299 policyholders who had their insurance policies cancelled
300 after they became ill. Some of them are here today to
301 testify, and I thank them very much for being here.

302 Overall, what we found is that the market for individual
303 health insurance in the United States is fundamentally
304 flawed. One of the biggest problems is that most States
305 allow individual health insurance policies to deny coverage
306 to people with preexisting conditions. So if you lose your
307 job and you can't qualify for a government program like

308 Medicare or Medicaid, it is nearly impossible to get health
309 insurance if you are sick or have an illness. This creates a
310 perverse incentive. In the United States, insurance
311 companies compete based on who is best at avoiding people who
312 need lifesaving health care, and this incentive manifests
313 itself in a wide variety of controversial practices by the
314 insurance companies when we know that when people apply for
315 insurance policies and they put down that they have some
316 preexisting condition, they are going to be denied. But what
317 we found is that when people with individual policies become
318 ill and then they submit their claims for expensive
319 treatments, then insurance companies launch an investigation.
320 They scour the policyholder's original insurance application
321 and the person's medical records to find any discrepancy, any
322 omission or any misstatement that could allow them to cancel
323 the policy. They try to find something, anything so they can
324 say that this individual was not truthful in that original
325 application. It doesn't have to even relate to the medical
326 care the person is seeking and often it doesn't. You might
327 need chemotherapy for lymphoma, but then when the insurance
328 companies find that your coverage was based on a failure to
329 disclose gallstones, well, they want to cancel your policy
330 after the fact. It may come as a surprise to most people but
331 the insurance companies believe they are entitled to cancel

332 the policies even when these omissions or discrepancies are
333 completely unintentional and they believe that they have the
334 right to cancel policies even when someone else like an agent
335 who sold the policy was responsible for the discrepancy in
336 the first place.

337 In addition, they can terminate coverage not just for
338 the primary policyholder but they go to terminate the
339 policies for the entire family including innocent children
340 who did nothing wrong. Some insurance companies launch these
341 investigations every single time a policyholder becomes ill
342 with a certain condition. In other words, if you happen to
343 have ovarian cancer, you should be prepared to be
344 investigated. It is the same with other conditions such as
345 leukemia.

346 In the written statements for today, the three insurance
347 companies downplay the significance of these practices,
348 arguing that rescissions are relatively rare. But these
349 three companies saved more than \$300 million over the past 5
350 years as a result of rescissions, and I am sure they view
351 this amount as significant. More importantly, however, these
352 terminations are extremely significant to the tens of
353 thousands of people who needed health care and couldn't get
354 it during these 5 years because their policies were
355 rescinded.

356 In my opinion, of course, the solution to these problems
357 is to pass comprehensive health reform legislation and based
358 on the written testimony I think the three insurance
359 companies testifying here today agree with that assessment.
360 But until that happens, insurance companies deny people
361 coverage if they have a preexisting condition and then
362 afterwards if they gave them the coverage for insurance they
363 want to see if there is some reason they can rescind it after
364 the fact, after they have already given out the insurance to
365 see if they can rescind that policy. I think it is shocking.
366 It is inexcusable. It is a system that we have in place and
367 we have got to stop.

368 Mr. Chairman, I am pleased that you are holding this
369 hearing and I thank you for the time allotted to me.

370 [The prepared statement of Mr. Waxman follows:]

371 ***** COMMITTEE INSERT *****

|
372 Mr. {Stupak.} Thank you, Mr. Waxman.

373 Mr. Barton for an opening statement, please.

374 Mr. {Barton.} Thank you, Mr. Chairman.

375 This is my month for witnesses from Waxahachie, Texas.
376 Last week we had Mr. Frank Blankenbecker, who is the owner of
377 Carlisle Chevrolet in Waxahachie. Today we have Ms. Robin
378 Beaton, who is a citizen of Waxahachie. So I want to extend
379 to her my very best wishes and let her and the other two
380 panelists on this first panel know that there is nothing to
381 be afraid of. You speak for tens of thousands if not
382 hundreds of thousands of American citizens, and the country
383 is very interested through the auspices of this hearing to
384 hear your story, so we appreciate all three of you being
385 here.

386 This is an important hearing. It addresses part of the
387 need to reform our health care system. We are going to hear
388 today about a problem under the current system that can occur
389 in the handling of individual health insurance policies when
390 claims are actually submitted for coverage under those
391 policies. As I just said, I want to extend a warm welcome to
392 our first panel of witnesses. Each of you has a personal
393 story that you wish to share and we know that it is a story
394 that is worth hearing. We also know that it takes courage to

395 testify, and as I just said, there is nothing to be afraid of
396 at this hearing today.

397 We hear of problems as Congressmen and -women when our
398 constituents tell us what those problems actually are. Today
399 we are going to hear from one of my constituents, Ms. Robin
400 Beaton. No one should have to go through what she has had to
401 go through the last several years. In June of last year, she
402 was diagnosed with an aggressive form of breast cancer and
403 her doctor said that she needed immediate surgery. The
404 Friday before the Monday that she was to undergo a double
405 mastectomy, she received a letter from her carrier, Blue
406 Cross of Texas, that rescinded her insurance policy. The
407 letter stated that the company would not pay for the surgery.
408 The letter further informed Ms. Beaton that an investigation
409 into her claim for benefits when the company had thoroughly
410 reviewed her medical records that she submitted when she
411 applied for the coverage and that they discovered that she
412 had misinformed them on several pieces of information. One
413 of them was that she didn't list her weight accurately, and
414 the other, that she failed to disclose some medication that
415 she had taken for a preexisting heart condition. The record
416 will show that she was not taking that medication at the time
417 that she submitted her initial application for coverage.
418 Robin's claim in June of 2008 was not for weight control, it

419 was not for a heart condition, it was for cancer surgery, a
420 double mastectomy for breast cancer, yet her policy was
421 rescinded 3 days before that surgery was scheduled to take
422 place. It was bad enough that she had to deal with the
423 trauma of breast cancer but to be denied coverage right
424 before potentially lifesaving surgery quite frankly is
425 something that no human being should have to undergo. She
426 had no insurance and no way to pay for her scheduled surgery.
427 So obviously it was postponed.

428 She called my office. My staff went to work. They had
429 several conference calls with officials of Blue Cross/Blue
430 Shield. In those conference calls, Blue Cross and Blue
431 Shield was unyielding. They were adamant. It went to the
432 counsel, the general counsel of Blue Cross/Blue Shield and
433 that individual said there was no way they were going to
434 reinstate her coverage. Never take no for an answer. I
435 called the president of Blue Cross/Blue Shield. I appealed
436 to him personally, gave him the facts as I knew them, and he
437 promised that he would personally investigate Ms. Beaton's
438 case, and he further promised that if the facts were as she
439 said and I said, that her coverage would be reinstated. Good
440 to his word, the president called me back within 4 hours and
441 said that Ms. Beaton's coverage would be reinstated.
442 However, precious time was lost. Luckily for Robin, she was

443 finally able to get the surgery, not through Blue Cross/Blue
444 Shield though, as I understand it. She is now undergoing
445 chemotherapy because the cancer has spread to her lymph
446 nodes, but she is still with us, thank God, and she is here
447 today to tell us her personal story.

448 Robin's situation was what caused me to draft an
449 amendment to Representative DeLauro's breast cancer bill last
450 year to protect people like Robin by prohibiting rescissions
451 of health insurance if non-disclosure of information is not
452 related to the claim, not related to the claim and
453 inadvertent. There is no reason on God's green earth that
454 somebody ought to have their health insurance revoked because
455 of some inadvertent omission that is not related to the claim
456 that is being submitted to the health insurance company.
457 This bill with my amendment passed the House last year but it
458 died in the Senate. It has been reintroduced and hopefully
459 it will pass this year. I support the right of an applicant
460 to request a third-party independent review of an insurer's
461 rescission prior to pending or denying payments of claims. I
462 understand that there is another side to this story. I
463 understand that there are people that do try to scam
464 insurance companies. I understand that there is a rule of
465 reason, but again, if somebody inadvertently omits something
466 or there is something that is not material to the claim, that

467 claim in my opinion should be paid, end of story.

468 As we head towards reforming health care, it is
469 important that we promote honesty on behalf of the insured
470 and the insurers. Congress needs to be confident that there
471 are consumer protections in place to protect people like
472 Robin Beaton as well as procedures for companies to protect
473 themselves from insurance fraud. Companies need to have open
474 and clear rules on when they terminate policies. Applicants
475 need to be truthful when applying for coverage. Every
476 American, and this is something that members on both sides of
477 the aisle support, needs to have access to affordable,
478 quality health care.

479 This is an important hearing towards that goal, Mr.
480 Chairman, and I thank you for holding it. I also think that
481 we should give special condition to one of our panelists here
482 on the dais. The gentlelady from Chicago injured herself
483 yesterday and has a broken leg and yet she is here today at
484 this health care hearing, so appreciate Ms. Schakowsky here.

485 Ms. {Schakowsky.} And fortunately with good health
486 insurance, so I am happy about that too.

487 Mr. {Barton.} And again, thank you, Mr. Chairman, for
488 holding this hearing.

489 [The prepared statement of Mr. Barton follows:]

490 ***** COMMITTEE INSERT *****

|
491 Mr. {Stupak.} Thank you, Mr. Barton, and thank you
492 again for helping us obtain witnesses for this hearing.

493 Mr. Dingell for an opening statement, please.

494 Mr. {Dingell.} Thank you, Mr. Chairman, and I commend
495 you for holding this hearing on the rather vicious practice
496 of post-claims underwriting and the detrimental effect that
497 such practices have on hundreds of Americans, and I want to
498 thank the witnesses for appearing in what I hope will be an
499 informative hearing today on which the committee may begin
500 some actions to correct what appears to be a very serious
501 abuse, and I remember, Mr. Barton, the way we worked together
502 on this and your outrage last year when we were addressing
503 similar questions.

504 Health care costs have risen sharply. In response to
505 this, insurance providers have taken drastic measures to
506 reduce costs and to improve profit margins. Unfortunately,
507 the health insurance industry is attempting to do so by
508 giving in to unscrupulous industry practice including the
509 practice of post-claims underwriting. I want to be clear. I
510 have no sympathy for individuals who intentionally
511 misrepresent their health status in the applications they
512 submit for health insurance coverage. These actions are
513 dishonest and have a negative impact on the cost of health

514 care for everyone else, and they are clearly wrongdoing and
515 they should be punished. However, I have far less sympathy
516 for health care providers and insurance providers who have
517 made it a customary practice to exploit current laws meant to
518 protect individuals and to take advantage of the most
519 vulnerable Americans in order to turn a profit. They do this
520 by seeing to it that they avoid risk as opposed to practicing
521 good insurance practices.

522 As we have seen time and time again, insurance providers
523 have made a living out of refusing to compete on quality and
524 choosing instead to compete by avoiding financial obligations
525 at all costs. In the current market, health insurance
526 providers are allowed to pick and choose whom they will cover
527 in the individual market. We have allowed this cherry
528 picking or cream skimming to go on for years, but when we
529 weren't looking the industry decided to up the ante. In some
530 cases, industry underwrote countless claims for individuals
531 that cherry picked and then it began to quietly punish those
532 individuals if they got sick and used their insurance for its
533 intended purpose, to cover major medical claims. In some
534 cases, industry didn't just drop the individual policyholder
535 but retroactively rescinded the contract as if the agreement
536 had failed to exist. They refused to pay hospitals, doctors
537 and nurses that sought reimbursement for services rendered.

538 To our witnesses who are appearing this morning to share
539 their personal experience with post-claims underwriting, we
540 will work to ensure these practices come to a sharp end. To
541 the CEOs testifying this morning, I would like them to know
542 this: We don't regulate for the fun of it. We regulate then
543 the private sector refuses to honor its commitments to the
544 American public. As we work to reform the Nation's health
545 care system, we will work to reform the current health
546 insurance market. We will work to ensure such reform will
547 prohibit insurers from excluding preexisting conditions or
548 engaging in any other unfair and discriminatory practice. We
549 will also work to ensure these reforms include fair grievance
550 and appeals mechanisms, very much lacking in the insurance
551 world today, and will ensure information transparency and
552 plan disclosure. These new reforms alone will not fix the
553 problems. We will also have to work to ensure that there is
554 strong oversight on both the federal and state level.
555 Furthermore, these insurance industry practices are precisely
556 the reason why we need a public health insurance option
557 included in our proposal to reform the health care system, a
558 public plan that leads by example and competes through
559 quality and innovation rather than unfair industry practices
560 is what is needed to keep the private industry in the
561 insurance business honest.

562 Thank you, Mr. Chairman.

563 [The prepared statement of Mr. Dingell follows:]

564 ***** COMMITTEE INSERT *****

|
565 Mr. {Stupak.} Thank you, Mr. Dingell.

566 Next for a 3-minute opening statement, Mr. Gingrey.

567 Mr. {Gingrey.} Mr. Chairman, thank you.

568 Generally, insurance is a form of risk management that
569 allows individuals to pay a monthly premium in exchange for a
570 company taking on their financial risk in the event of a
571 health care catastrophic loss. Health insurance, on the
572 other hand, is not typical insurance. For a monthly premium,
573 individuals purchase health insurance to financially support
574 them in the event of a catastrophic incident such as a broken
575 leg, as the gentlelady from Chicago just recently
576 experienced, or major surgery. Patients also use their
577 insurance for such things as doctor visits or monthly
578 prescriptions. In many respects, health insurance has become
579 the means by which patients see their providers and they
580 receive treatment.

581 Primary responsibility for regulating the individual
582 health insurance market rests with the State regulators.
583 However, in the Health Insurance Portability and
584 Accountability Act of 1996, HIPAA, Congress made very clear
585 that an individual insurance policyholder has a right to
586 guarantee renewability. In other words, an insurer must
587 renew or continue an individual's existing coverage unless

588 some specific exception is made. Those exceptions include a
589 policyholder moving out of a network plan service area, or if
590 the policyholder intentionally misrepresents a material fact
591 concerning their condition when contracting with the insurer.

592 I believe it is unfair for an individual to be denied
593 coverage for a claim when he or she has been upfront about
594 their condition. They played by the rules of the contract.
595 They paid their premiums on a regular timely basis only to be
596 denied coverage when a health care incident arises as
597 described by my colleague, Mr. Walden, what we would call
598 post-claims underwriting. The impact it has on patients and
599 their loved ones can be devastating. I have actually
600 personally experiences that in my own family and it literally
601 took an act of Congress to change that.

602 With these things in mind, I look forward to the
603 testimony of our witnesses today. I want to thank the entire
604 panel, this first panel particularly, as well as the second
605 panel for coming in today and sharing your stories with us,
606 and Mr. Chairman, I look forward to the hearing and to the
607 questions, and at this time I yield back.

608 [The prepared statement of Mr. Gingrey follows:]

609 ***** COMMITTEE INSERT *****

|
610 Mr. {Stupak.} Thank you, Mr. Gingrey.

611 Mr. Green of Texas for an opening statement, please.

612 Mr. {Green.} Thank you, Mr. Chairman, and I think all
613 of us appreciate you calling this hearing today because like
614 my ranking member from Texas talked about, we deal with this
615 all the time through our constituents, and as a State
616 legislator in Texas, we have had that same problem for many
617 years, and I appreciate you bringing this out and hopefully
618 we will address this in our health care reform. I want to
619 thank our witnesses for being here today.

620 Most individuals in the country have health insurance
621 through their employer, Medicare or Medicaid. But millions
622 of Americans do not have insurance through their employers or
623 through the public market so they turn to the individual
624 insurance market to purchase insurance policies. Individuals
625 who purchase the insurance through the individual market must
626 go through an application process and supply their medical
627 history including any mental, physical or chronic conditions.
628 Insurance companies are supposed to review those applications
629 and review the applicant's medical history before approving
630 the individual for coverage. Oftentimes this medical history
631 never occurs and the insurance companies will cover
632 individuals who have conditions they would not necessarily

633 cover. These individuals believe their coverage is current
634 and when they submit a claim they often find themselves
635 subject to that medical history investigation and dropped
636 from their insurance and liable for all claims under the
637 policy. In other instances, individuals submit a claim for a
638 serious illness such as cancer and find themselves subject to
639 a medical history investigation and dropped from their policy
640 because the insurance company claims the individual did not
641 disclose a medical condition when filling out their initial
642 application. Both these instances leave the individual
643 without health insurance coverage and uninsurable because
644 they have to report having their coverage rescinded.
645 Individuals who are undergoing medical treatment for
646 conditions such as cancer are dropped from their coverage
647 often face life-and-death situations because the insurance
648 company does not want to pay for their treatments. I can't
649 imagine the pain and suffering that these individuals go
650 through at the expense of an industry seeking healthy
651 patients to make a profit.

652 A few States, including Texas, have taken actions to
653 prevent insurance companies from post-claims underwriting.
654 As we are working through health reform, we need to examine
655 the individual market and ensure individuals never have to
656 face losing their coverage for simply using their coverage,

657 and Mr. Chairman, again, I thank you for calling this
658 hearing. I yield back my time.

659 [The prepared statement of Mr. Green follows:]

660 ***** COMMITTEE INSERT *****

|
661 Mr. {Stupak.} Thank you, Mr. Green.

662 Mr. Burgess for 3-minute opening statement, please, sir.

663 Mr. {Burgess.} Thank you, Mr. Chairman, for the
664 consideration.

665 Let me just say at the outset, I do believe in the
666 individual market. I believe it has a place in this country.
667 Indeed, I was a client and a customer in the individual
668 market for my family's coverage for a period of time. And I
669 also believe that the barriers that we, the federal
670 government, the Congress puts in place on the individual
671 market sometimes creates unnecessary difficulties for the
672 people who sell in the individual market or the people who
673 wish to be their customers. But no one can defend, and I
674 certainly cannot defend the practice of denying coverage
675 after the fact and I cannot be comforted by the fact or the
676 statements that are made that this is in fact an infrequent
677 occurrence because as the cases in front of us at the witness
678 table demonstrated this morning, there is no acceptable
679 minimum to denying coverage after the fact when the coverage
680 was duly paid for and entered into in an honest fashion and
681 then only when the coverage was required was it found to be
682 not there.

683 Now, I don't think anyone on either side of the dais

684 believes that anyone would ever lie about something on a
685 medical history, maybe fudge your weight a little bit, maybe
686 the number of times we actually go the gym or what we
687 actually do there, but no one would willfully do that. The
688 question before us today is, do people intentionally lie in
689 order to manipulate companies into giving them coverage when
690 they know that they have a preexisting condition, and the
691 legal jargon that we apply to that is rescission, and should
692 insurance companies post procedure be allowed to terminate
693 individual contracts based upon the omission of disclosure of
694 a preexisting condition irrespective of whether it was
695 intentional on behalf of the individual seeking coverage or
696 not, and I am troubled by that inability to distinguish
697 between those who intentionally act with fraud and those who
698 honestly answer broad, vague or confusing questions on the
699 contracts to obtain health coverage. Those are not
700 equivalent conditions. An omission without intent does not
701 signify fraud and no insurance company who hides behind
702 filling out their request for insurance as a strict liability
703 should be protected. Intent is crucial because those who act
704 fraudulently should not be protected by the law nor should it
705 be our desire to do so.

706 It is interesting to me that all of the insurance
707 companies today that we are going to hear from on our panel

708 today are private for-profit companies, but Ms. Beaton's
709 insurer, whose case proved near intractable until her Member
710 of Congress got involved, was Blue Cross and Blue Shield, and
711 I wonder, Mr. Chairman, why Blue Cross and Blue Shield is not
712 in one of our panels today. Clearly as a nonprofit company,
713 they would not have a purely profit-driven motive to engage
714 in this type of behavior. So theirs is perhaps particularly
715 curious and I think there are a number of questions that we
716 would like to pose to a company that does in fact function as
717 a nonprofit. It is the responsibility of each insurance
718 company whether for profit or not for profit to do their due
719 diligence before the contracts are entered into and not use
720 rescission as an excuse for lazy or incomplete underwriting.

721 Thank you, Mr. Chairman. I will yield back the balance
722 of my time.

723 [The prepared statement of Mr. Burgess follows:]

724 ***** COMMITTEE INSERT *****

|
725 Mr. {Stupak.} Thank you, Mr. Burgess.

726 Ms. Sutton for opening statement, please.

727 Ms. {Sutton.} Thank you, Chairman Stupak, for holding
728 this critical hearing.

729 Simply put, rescission of coverage by insurance
730 companies puts dollars ahead of the lives of Americans, and I
731 am not exaggerating when I say that insurance accountability
732 is something that I have fought and advocated for at every
733 stage of my professional life. During my time as a
734 representative in the Ohio General Assembly, I worked on
735 behalf of Ohioans to ensure that when benefits were promised,
736 benefits were given. And now I am here in Congress to
737 continue that fight.

738 Rescission of coverage is a problem that we in Congress
739 are seeking to eliminate and it is our hope, you have heard
740 from the comments here, that when we have finished reforming
741 our health care system, coverage discrimination will be a
742 thing of the past, but today it is still a problem that
743 exists and must be eliminated. When a health insurance
744 policy rescission occurs, it creates waves throughout the
745 entire health care system. Make no mistake, these decisions
746 deprive people of needed care. They deprive hospitals and
747 doctors of the reimbursement they have earned for their

748 service. For some, a rescission is a costly process that can
749 result in a doctor or hospital having to seek payment from
750 the individual. For others, it means a delay in access to a
751 lifesaving procedure or treatment. That is unacceptable.

752 Today we will hear from citizens, and I thank you all
753 for coming to provide your testimony and your stories about
754 your lives that have been turned upside down by the insurance
755 industry policy of rescission. We will hear from executives
756 who will tell us that in the name of uncovering insurance
757 fraud and corruption, they had no choice but to remove these
758 beneficiaries from their rolls. But I think the testimony of
759 the people who have lived through this trauma will tell a
760 different story.

761 The number of uninsured in this country is now thought
762 to be 47 million. It is a major flaw in our country that so
763 many people go without their basic right to have health care
764 coverage and millions more who have insurance still don't get
765 the care they need when they need it. It is hard to
766 understand how we allow those who are legitimately covered to
767 join the ranks of the uninsured due to the stroke of a pen or
768 the decision of an insurance company executive.

769 Unfortunately, Mr. Chairman, I have another hearing that
770 is going on simultaneously with this one so will be shuttling
771 back and forth, but I want the panelists to know that I will

772 be listening carefully to the testimony, both for myself and
773 for the people of Ohio that I am so honored to represent, and
774 I thank you all again for coming and I thank you, Mr.
775 Chairman, for your attention to this matter.

776 [The prepared statement of Ms. Sutton follows:]

777 ***** COMMITTEE INSERT *****

|

778 Mr. {Stupak.} Thank you, Ms. Sutton, and that is a good
779 reminder. Members will be coming back and forth as there is
780 a committee two floors up. The Telecommunications and
781 Internet Subcommittee is also meeting, and in that vein,
782 Congresswoman Donna M. Christensen, who is a member of this
783 subcommittee, has submitted her opening statement for the
784 record. Without objection, it will be entered into the
785 record.

786 [The prepared statement of Ms. Christensen follows:]

787 ***** COMMITTEE INSERT *****

|
788 Mr. {Stupak.} Next I will turn to Ms. Schakowsky for an
789 opening statement, please, and you can tell us how you broke
790 your leg.

791 Ms. {Schakowsky.} Well, I wish there was a dramatic
792 story, Mr. Chairman, although it was in a fairly dramatic
793 place. I did go to Guantanamo Bay yesterday and fell and
794 ended up breaking my foot in two places. I hope soon with
795 the help of the attending physicians I will have a boot or a
796 cast or something. That was just yesterday, and I--

797 Mr. {Stupak.} Well, we wish you well and thanks for
798 being here.

799 Ms. {Schakowsky.} And I am grateful that I do have good
800 health insurance to cover that.

801 I appreciate today's hearing examining one of the truly
802 egregious practices occurring in the individual health
803 insurance market. I want to extend a special welcome to Ms.
804 Peggy Raddatz from my home State from La Grange. I thank you
805 for being here and sharing your family's story with us. I
806 know it isn't always easy to discuss personal matters but you
807 certainly are helping us to make better health care policies,
808 and I thank all the witnesses for helping us.

809 When a consumer goes to buy a health insurance policy,
810 they examine their options and they try to identify the best

811 policy to meet the health care needs of their family and at
812 no time do they ever imagine that once they buy a policy they
813 might get sick and their insurance will simply rescind their
814 policy and leave them without coverage but with a high pile
815 of bills. The practice of post-claims underwriting in the
816 private market is wrong and we should prohibit it. Let us
817 face it is, it is already hard enough for an individual or
818 small business owner to find health insurance. In my State
819 of Illinois, there is no requirement that insurers take all
820 comers, and I have heard from constituents over and over
821 again who are unable to find a policy really at any price.
822 Those who do get through the insurance industry gauntlet know
823 that they are not home free. They know they may face high
824 out-of-pocket costs, denial of doctor-prescribed treatments,
825 prior approval requirements, caps on services and other
826 devices that are designed to limit the insurance company
827 payments. But few know that when they need care the
828 insurance company that has been collecting their premiums may
829 now go back and comb through their personal history in order
830 to find an excuse not to pay just when the policyholder needs
831 the coverage the most.

832 There are some who argue that rescissions are used to
833 stop fraud on the part of enrollees who misrepresent their
834 health histories in order to obtain coverage. One has to

835 wonder why we would put up with a health care system in which
836 people have to hide their illnesses in order to get access to
837 care, but we also know that this isn't about that. It is
838 most often about a company looking for an undisclosed
839 headache 10 years ago in order to deny coverage for a brain
840 tumor today. The practices of the private insurance market
841 have less to do with the consumer and a lot to do with
842 company profits. As we move forward with health care reform,
843 we have to put an end to practices that discourage patients
844 from seeking out care. Insurance coverage should be a
845 pathway, not a barrier to care.

846 Mr. Chairman, I look forward to working with you to
847 improve care coverage, refocus our attention on patients, and
848 I really again thank our witnesses for being here today, and
849 with that, I yield back.

850 [The prepared statement of Ms. Schakowsky follows:]

851 ***** COMMITTEE INSERT *****

|
852 Mr. {Stupak.} Thank you.

853 Mr. Braley for an opening statement, please.

854 Mr. {Braley.} Thank you, Mr. Chairman. This is a very
855 important hearing but I would like to start by talking about
856 the very concept that we are here to discuss because the term
857 'post-claims underwriting' is an oxymoron. Insurance
858 companies are structured into different departments. They
859 have an underwriting department and a claims department, and
860 the underwriting department is supposed to do pre-issuance
861 risk assessment to determine whether an individual policy is
862 worth the company investing in that person as a health care
863 risk. The claims department is designed to respond to
864 requests for coverage after a policy has been issued. So the
865 very theory we are here to talk about today isn't even
866 supposed to exist in a rational health care delivery system,
867 and it wouldn't exist if we had a rational health care
868 delivery system. But when you read news stories where the
869 CEO of one private health insurance company is sitting on
870 stock options valued at \$1.6 billion, it shouldn't come as a
871 shock to any of us that we are sitting here today hearing
872 these horror stories of patients who have been caught up in
873 an inefficient, unsustainable private health insurance
874 delivery system.

875 And Ms. Raddatz, I wish that every claims examiner at
876 every insurance company and every underwriter who gets
877 engaged in post-claims underwriting determinations had to go
878 through what you went through and the other witnesses who are
879 here today because one of the most profound experiences I
880 have had in my life was spending about a month at a pediatric
881 oncology unit at the University of Iowa Hospitals and Clinics
882 when I was in the Big Brothers/Big Sisters program and my
883 little brother was diagnosed with acute large-cell non-
884 Hodgkin's lymphoma and spend time every day watching young
885 patients with no hair, with IVs in their arms or in their
886 chests going into a port, walking around and taking care of
887 each other much better than our health care industry takes
888 care of patients in their time of need, and it is a slander
889 on the names of the health care professionals who do
890 everything they can to keep patients like your brother, like
891 my little brother alive when we don't give them the support
892 that they need after they have invested their hard-earned
893 dollars by paying premiums to a health care insurance company
894 who turns their back on the patient in their hour of need,
895 and that is why I am a strong supporter of the public health
896 insurance option and I am proud that my colleagues on this
897 committee, Chris Murphy and Peter Welch, have joined me in
898 introducing the Choices bill to give health insurance

899 patients a public health insurance option with no
900 discrimination so we don't have to go through these
901 nightmares anymore.

902 With that, I yield back.

903 [The prepared statement of Mr. Braley follows:]

904 ***** COMMITTEE INSERT *****

|
905 Mr. {Stupak.} Well, thank you, and that concludes the
906 opening statements of all members. One of our witnesses had
907 to step out just for a moment so let us stand in recess for
908 just 5 minutes and we come right back in about 5 minutes,
909 okay? We will give everyone a chance to stretch their legs
910 and we will be in recess for 5 minutes.

911 [Recess.]

912 Mr. {Stupak.} This hearing will come back to order.

913 As I stated before we had the brief recess there, that
914 concludes the opening statements by members of the
915 subcommittee and now I would like to call upon our first
916 panel of witnesses. On our first panel, we have Robin
917 Beaton, who is a policyholder from Waxahachie, Texas; Ms.
918 Peggy Raddatz from La Grange, Illinois, who is the sister of
919 the late policyholder, Otto Raddatz; and Ms. Wittney Horton,
920 who is a policyholder from Los Angeles, California. Welcome,
921 all of you. Thank you for coming.

922 It is the policy of this subcommittee to take all
923 testimony under oath. Please be advised that you have the
924 right under the rules of the House to be advised by counsel
925 during your testimony. Do you wish to be represented by
926 counsel during your testimony? You are all shaking your
927 heads no, so okay. Then I am going to ask to please rise and

928 raise your right hand and to take the oath.

929 [Witnesses sworn.]

930 Mr. {Stupak.} Let the record reflect that the witnesses
931 replied in the affirmative. They are now under oath. We
932 will hear a 5-minute opening statement from each of you. Ms.
933 Beaton, would you like to start first with an opening?

934 Ms. {Beaton.} I would like to be last.

935 Mr. {Stupak.} You would like to be last. Ms. Horton,
936 do you mind going first?

937 Ms. {Horton.} No.

938 Mr. {Stupak.} Would you pull that mic forward and turn
939 on the green--there should be a green button there. Pull
940 that mic forward. It doesn't pick up as well as it should.

941 Ms. {Horton.} Can you hear me now?

942 Mr. {Stupak.} I can hear you. Thank you.

|
943 ^TESTIMONY OF WITTNEY HORTON, POLICYHOLDER, LOS ANGELES,
944 CALIFORNIA; PEGGY RADDATZ, RELATIVE OF POLICYHOLDER, LA
945 GRANGE, ILLINOIS; AND ROBIN BEATON, POLICYHOLDER, WAXAHACHIE,
946 TEXAS

|
947 ^TESTIMONY OF WITTNEY HORTON

948 } Ms. {Horton.} Good morning, ladies and gentlemen. I
949 want to start by thanking the committee for this opportunity
950 to testify this morning. I am very pleased that Congress has
951 decided to take a close look at rescission so that it can
952 understand just how damaging this practice has been to so
953 many people across the country.

954 When Blue Cross cancelled my coverage, I had no idea
955 what rescission meant, but now after my life has been turned
956 upside down for the past 4 years, I have come to understand
957 what a despicable practice it is. Insurance companies
958 require you to fill out an application that is deliberately
959 confusing and they don't do anything to make sure you
960 understood the questions or that you supplied all the
961 information they need to decide whether they want to insure
962 you or not. They just accept you and accept your premium
963 checks. It is after you see a doctor that everything

964 changes.

965 When your doctors file claims, the insurance company
966 starts looking for reasons not to pay them. They dig through
967 your medical records and compare what they find to the
968 information you put down on the application. It is called
969 post-claims underwriting, and in California where I live, it
970 is illegal, but insurers ignore the law, and when they find a
971 discrepancy or an omission, they rescind the policy and
972 refuse to pay any of your medical bills, even for routine
973 treatment or treatment they previously authorized.

974 Blue Cross's decision to rescind my insurance was
975 devastating to my husband and me, and I consider myself one
976 of the lucky ones. As the lead plaintiff in a class-action
977 lawsuit against Blue Cross, I represent 6,000 Californians
978 who are all stripped of their insurance by Blue Cross. You
979 can't imagine how horrifying some of those stories are.

980 Blue Cross rescinded some of these people right after
981 they had undergone open-heart surgery or were receiving
982 chemotherapy treatment for cancer. Some of these people were
983 left with hundreds of thousands in unpaid medical bills. One
984 thing we all have in common, we all were left to somehow stay
985 healthy and fend for ourselves after Blue Cross walked away
986 from its promise to provide health insurance.

987 I sought insurance with Blue Cross in 2005 because my

988 parents raised me to believe that health insurance was an
989 absolute necessity that should never be taken for granted. I
990 work in the film industry in Los Angeles, California, where
991 employment is generally temporary and done on a freelance
992 basis. So for me and many others in the industry, individual
993 coverage is a necessity. At the time I applied for coverage,
994 I had just left a temporary staffing agency for Sony Pictures
995 to go to work on a specific movie. When I made the move, I
996 had to give up the stability of my group health care plan.
997 So I immediately sought out individual health care coverage.

998 When I applied for coverage with Blue Cross, I wanted to
999 make sure that I did everything correctly to ensure that
1000 there would be no problems. I filled out the application to
1001 the best of my ability, even though it was long and
1002 confusing. I wrote down everything I could remember about my
1003 health history including hypothyroidism, a condition I have
1004 had since I was 18. I even listed the contact information
1005 for my treating doctor. Then I turned my application in to
1006 my insurance broker. She told me everything looked good and
1007 sent it in to Blue Cross and they quickly accepted my
1008 application. I was only 27 at the time.

1009 Two months later, I went to my endocrinologist for a
1010 checkup. I had routine blood work performed and the doctor's
1011 office sent the bill to Blue Cross. I received a letter back

1012 from Blue Cross shortly afterwards saying that they wanted
1013 all of my medical records from both my endocrinologist and my
1014 gynecologist. I consented, having nothing to hide. A couple
1015 of months later in June of 2005, I received a letter from
1016 Blue Cross stating they were rescinding my insurance because
1017 I didn't disclose on the application that I had taken the
1018 drug Glucophage and because of irregular menstruation. I had
1019 taken Glucophage the previous year but was no longer taking
1020 it when I filled out the application. My doctor had
1021 prescribed it hoping that it might help me lose weight, but
1022 it did not. I stopped taking the medication when I saw that
1023 it was not working for me.

1024 In its rescission letter, Blue Cross said it would have
1025 never accepted me for coverage if it had known that I had
1026 polycystic ovaries. This letter was the first time I had
1027 ever heard about this condition. I later learned that
1028 polycystic ovaries, or PCOS, as it is known, is a diagnosis
1029 of exclusion and very difficult to prove. Doctors often
1030 proceed on suspicions of a person having it without actually
1031 having proven it. This is what happened in my case. My
1032 doctor suspected I might have PCOS, wrote it down in her
1033 notes, then told me she was prescribing Glucophage for weight
1034 management. I never knew what she wrote down in her notes
1035 because she never told me.

1036 After I was rescinded, I had two of my doctors write
1037 letters to Blue Cross telling them this but they didn't care.
1038 They just wrote back that they were upholding their decision
1039 to rescind. After being rescinded, I showed my original
1040 application to my sister and her husband, both radiologists,
1041 to ask them what I could have possibly done wrong in filling
1042 out the application. They felt that the application was
1043 worded in such a way as to be purposely confusing and that it
1044 asked the same question in multiple ways to trip people up.
1045 I am a college graduate and no dummy, and I still couldn't
1046 make sense of Blue Cross's tricky application.

1047 The worst part about my rescission is that I have been
1048 unable to get insurance anywhere else. I applied for
1049 individual insurance through Blue Shield but on their
1050 application they ask if the applicant has ever had insurance
1051 rescinded. When they learned that I had, they informed me
1052 that they would not accept me for coverage. Every insurance
1053 company asks if you have ever had health care coverage
1054 rescinded. For the rest of my life I will never be able to
1055 get individual coverage again because of Blue Cross. As
1056 someone who works in an industry that relies on individual
1057 coverage plans, this is a really big deal. Since my
1058 rescission, I have had to take jobs that I do not want and
1059 put my career goals on hold to ensure that I can find health

1060 insurance. Fortunately, after my husband and I got married,
1061 I was able to gain coverage through his company's group
1062 health care plan. However, if he ever loses his job or I
1063 don't have employment with a company that offers group health
1064 insurance, I might have to go without.

1065 As I mentioned before, I consider myself one of the
1066 lucky ones. I don't have large outstanding medical bills and
1067 I am relatively healthy. In fact, I was able to pay my
1068 doctors back for the blood work and office visits that Blue
1069 Cross refused to pay. But many people who have been
1070 rescinded are far less fortunate, and as the lead plaintiff
1071 against Blue Cross, I feel an obligation to speak for them as
1072 well. What Blue Cross has done to us is wrong and they must
1073 not be permitted to continue getting away with it. Americans
1074 desperately need health care reform. As my experience shows,
1075 owning an insurance policy does not necessarily equal access
1076 to health care. If insurance companies are not prevented
1077 from canceling or restricting coverage after patients get
1078 sick, insurance policies are not worth the paper they are
1079 printed on.

1080 Insurance companies are making record profits by
1081 collecting premiums in exchange for the promises that they
1082 make to be there when people need them. Make them keep that
1083 promise. Thank you.

1084 [The prepared statement of Ms. Horton follows:]

1085 ***** INSERT 1 *****

|
1086 Mr. {Stupak.} Thank you, Ms. Horton.

1087 Ms. Raddatz, and on behalf of Otto Raddatz, would you
1088 like to give your opening statement? And thank you for being
1089 here.

|
1090 ^TESTIMONY OF PEGGY RADDATZ

1091 } Ms. {Raddatz.} Thank you, very much Mr. Chairman, and
1092 thank you to all the members of the committee for all your
1093 kind words and your wonderful statements.

1094 My name is Peggy Raddatz and I am appearing here today
1095 to testify on behalf of my brother, Otto S. Raddatz. My
1096 brother was a business owner of a restaurant that he ran with
1097 his wife, Marie. He purchased a health insurance policy from
1098 Fortis Insurance Company in August of 2003. On the
1099 application, he indicated he had kidney stones and smoked.
1100 He also listed all physicians who had treated him. Otto's
1101 health application with Fortis was accepted and his coverage
1102 began in August of 2003. A year later, my brother found
1103 himself inexplicably losing a large amount of weight. His
1104 wife, Marie Raddatz, urged him to see a doctor.

1105 In September of 2004, my 59-year-old brother at the time
1106 was diagnosed with stage IV non-Hodgkin's-type lymphoma. The
1107 very next day, he began an intensive course of chemotherapy
1108 treatments. Due to the aggressive type of cancer Otto had,
1109 being mantel zone lymphoma, he was given six more rounds of
1110 chemotherapy by January of 2005. He suffered a lot during
1111 this period of time and was often unable to work. Otto was

1112 referred to a specialist in stem cell transplantation and for
1113 high-dose chemotherapy. Otto began more chemotherapy for
1114 purposes of preparing him for a stem cell transplant. These
1115 treatments were long and difficult in nature. In the midst
1116 of the chemo treatments, Otto received a phone call and
1117 letter from Fortis Insurance Company stating his insurance
1118 was cancelled.

1119 It was rescinded all the way back to the effective date
1120 of August 7, 2004, which was before his diagnosis for cancer.
1121 This meant none of his cancer treatments would be covered at
1122 all. Most importantly, he would not be able to receive the
1123 stem cell transplant needed to save his life. My brother
1124 only had a very small window of time in which to have the
1125 stem cell transplant. He needed to be scheduled within the
1126 next three to four weeks or he would not be able to have the
1127 transplant at all and his life would be ended very shortly.
1128 My brother was told he was cancelled during what they called
1129 a routine review during which they claimed to discover a
1130 material failure to disclose, as they stated in their letter.
1131 Apparently in 2000, his treating doctor had done a CT scan
1132 which showed a small aneurysm and some very insignificant
1133 gallstones. My brother was never told of either one of these
1134 conditions nor was he ever treated for them, nor did he ever
1135 report any symptoms from them either.

1136 After months of preparation, the stem cell transplant
1137 could not be scheduled. My brother's hope for being a cancer
1138 survivor was dashed. His prognosis was only a matter of
1139 months without the procedure. By this time, he could no
1140 longer work and ultimately had to sell his restaurant because
1141 of it.

1142 Mr. {Stupak.} Wait a minute.

1143 Ms. {Raddatz.} Thank you, Mr. Chairman.

1144 When I called the hospital to see if I could schedule
1145 the stem cell transplant for him because he was in such a
1146 weakened state both physically and emotionally, I was
1147 callously told unless your brother brings in cash and a
1148 bundle of it, he is not going to get the procedure without
1149 insurance. My brother was accused by Fortis Insurance
1150 Company of falsely stating his health history, despite the
1151 fact that he had no knowledge of ever having any gallstones
1152 or aneurysms. Luckily, I am attorney and I was able to
1153 aggressively become involved in solving this life-threatening
1154 situation. I got on the phone and literally made dozens of
1155 phone calls day after day after day. I put my personal work
1156 aside and worked on this literally round the clock calling
1157 people. I finally was told to contact the Attorney General's
1158 Office and received immediate and daily assistance from the
1159 Illinois Attorney General's Office and from Dr. Babs Waldman,

1160 the medical director of their Health Bureau. I cannot thank
1161 them enough for their daily assistance in support of myself
1162 and my brother through this difficult time.

1163 During their investigation, they located the doctor who
1164 ordered the CT scan. He was not only retired, he was on a
1165 fishing trip at the time, and through their unbelievable
1166 resolve, they were able to get a hold of him on the fishing
1167 trip and he had no recollection--he recalled my brother and
1168 his treatment of my brother but he had no recollection of
1169 ever disclosing the information to my brother or treating him
1170 for gallstones or for a small aneurysm. After two appeals by
1171 the Illinois Attorney General's Office, Fortis Insurance
1172 Company finally overturned their original decision to rescind
1173 my brother's coverage and he was reinstated without lapse.
1174 This is after weeks of constant phone calls between myself
1175 and the Attorney General's Office and we were literally
1176 scrambling hour by hour to get this accomplished so that my
1177 brother wouldn't lose his 3- to 4-week window of opportunity
1178 that he had prepared for and lose his opportunity to have the
1179 procedure.

1180 What Fortis Insurance Company did was unethical. To
1181 deny a dying person necessary medical treatment based upon
1182 medical conditions a patient never had knowledge of, never
1183 complained about or never been treated for is cruel. It is

1184 the hope of our family that this information will benefit
1185 other patients who are in need of lifesaving medical
1186 treatments and who do not have the knowledge or means
1187 necessary to fight against the health insurance companies. It
1188 is further our desire to expose these practices of Fortis
1189 Insurance Company so that others do not have to suffer as
1190 victims, as my brother did.

1191 Thank you very much, Mr. Chairman, and thank you so
1192 much, members of the committee, for all your efforts.

1193 [The prepared statement of Ms. Raddatz follows:]

1194 ***** INSERT 2 *****

|

1195 Mr. {Stupak.} Thank you.

1196 Ms. Beaton, would you like to give your opening

1197 statement now? Take your time.

|
1198 ^TESTIMONY OF ROBIN BEATON

1199 } Ms. {Beaton.} Mr. Chairman and members of the
1200 committee, I am very honored to be here to share my story.

1201 My name is Robin Beaton. I am 59 years old. I was a
1202 registered nurse for 30 years. I had insurance. I was in
1203 good health. I retired from nursing, started my own small
1204 business, obtained a personal individual policy from Blue
1205 Cross and Blue Shield in December 2007. In May 2008, I went
1206 to a dermatologist for acne, pimples. A word was written
1207 down my chart, which was considered to mean precancerous. In
1208 June 2008, I was diagnosed with invasive HER-2 genetic breast
1209 cancer, a very aggressive form of this cancer. I needed a
1210 double mastectomy immediately. Blue Cross and Blue Shield
1211 precertified me for my surgery and for a hospital stay.

1212 The Friday before I was to have my double mastectomy,
1213 Blue Cross and Blue Shield called me by telephone and told me
1214 that my chart was red flagged. What does that mean, I said.
1215 They said that due to the dermatologist's report, that was
1216 what red flagged my chart in the beginning, that I would not
1217 be able to have my surgery on Monday and they launched a 5-
1218 year medical investigation into my medical history for the
1219 last 5 years. I had to give them every hospital, every

1220 doctor, every--

1221 Mr. {Stupak.} Take your finger off. There you go.

1222 Ms. {Beaton.} I had to give them every pharmacy, every
1223 doctor, every hospital and they threatened me that if I left
1224 anything out, that it would be really bad, so I truly tried
1225 everything in the world I could to list every single doctor,
1226 everywhere I had ever been. I immediately got in touch with
1227 the dermatologist. He immediately called Blue Cross and Blue
1228 Shield and he begged them. He said this is a
1229 misunderstanding. He said this is not precancerous. He said
1230 all she has is acne, pimples. He said please don't hold up
1231 her cancer surgery for this. He begged them. He was the
1232 nicest man. Anyway, I was frantic. I did not know what to
1233 do. I didn't know how to pay for my surgery. The hospital
1234 wanted a \$30,000 deposit and I was by myself. I didn't have
1235 that kind of money.

1236 I turned to the only person that I had to turn to, and
1237 that was Joe Barton, my Congressman. The next day I get a
1238 letter canceling my insurance, rescinding it to the first day
1239 that they had covered me. Can you imagine having to walk
1240 around with cancer growing in your body with no insurance?
1241 It is the most terrible thing in the world to not have
1242 anybody to turn to, not have anywhere to go. So I just can't
1243 even say how bad it was. The sad thing is, Blue Cross and

1244 Blue Shield took my high premiums. The very first time I
1245 ever had a claim, the very first time and was suspected of
1246 cancer, they took action against me searching high and low.
1247 They turned over every single thing they could in my medical
1248 history to pull out anything that would cause any suspicion
1249 on me so they didn't have to pay for my cancer.

1250 A nurse who attends my church works full time for Blue
1251 Cross and Blue Shield. She looks through medical records
1252 searching for reasons to cancel people. She came to me and
1253 she said I feel so bad, she said, I just can't even tell you
1254 how sorry I am this has happened to you. Blue Cross and Blue
1255 Shield has control over life and over death. People have to
1256 be able to count on what they have paid for, count on having
1257 insurance. Blue Cross and Blue Shield will do anything to
1258 get out of paying for cancer, anything. Sad fact is, anyone
1259 with a catastrophic illness who is not a part of a group who
1260 has an individual policy stands a really high chance of
1261 getting cancelled, left out in the cold with no insurance. I
1262 go to a cancer support group every week. Four girls in my
1263 cancer support group have had their insurance cancelled, and
1264 two of those girls have had to declare bankruptcy because of
1265 cancer.

1266 It is very difficult for me to speak out. My insurance
1267 could be cancelled again. I live in fear every day of my

1268 insurance company. I looked everywhere for help. No one
1269 found anything to help me until Joe Barton and Krista
1270 Townsend after working for a really, really long time. Every
1271 day they worked hard. I had given up hope. I didn't have any
1272 hope left and they never gave up hope. They did everything
1273 they could to help me and they got my insurance reinstated.

1274 After being diagnosed in June 2008 with aggressive
1275 breast cancer, I was placed back on a list to get a
1276 mastectomy, which I finally got to have my cancer surgery
1277 October 2, 2008. My tumor grew from 2 to 3 centimeters all
1278 the way to 7. I had to have all my lymph nodes removed in my
1279 arm, everything. Delaying cancer treatment, it only worsens
1280 the condition, costing more to treat and treatment is much
1281 more intensive. Also, the outcome is not as good. I go to
1282 chemotherapy every 3 weeks and I will have to be going for
1283 the next year. Cancer is expensive and no one wants to pay
1284 for cancer. I pray no one has to go through the sheer agony
1285 that I have had to ensure for one year. I did not deserve to
1286 have my insurance cancelled. Blue Cross and Blue Shield set
1287 out to get rid of me. They searched high and low until they
1288 found enough to cancel me and they did. I owe my life to Joe
1289 Barton. I pray that you will listen to my story and help
1290 people like me who are powerless against the big insurance
1291 companies. And today when I met Mr. Barton, that was the

1292 very first time I ever met him. He helped me not even
1293 knowing me, just because as a good man he just helped me.
1294 But I went everywhere. I went to the county hospital, I went
1295 everywhere looking for help, and you just get on a waiting
1296 list, and when you get on a waiting list your cancer grows.

1297 So I just want to thank you all for listening to me and
1298 just please do something about it because I couldn't even
1299 tell you the people I know that have been through this. It
1300 is a horrible thing to go through. Thank you all so much.

1301 [The prepared statement of Ms. Beaton follows:]

1302 ***** INSERT 3 *****

1303 Mr. {Stupak.} Thanks, Ms. Beaton.

1304 Now we will turn for questions and I will begin. We
1305 will go for 5 minutes on questions. We will probably go a
1306 round or two per panel.

1307 For our three panelists here, I would like to get your
1308 thoughts on some information the committee gathered about the
1309 economics of rescissions for insurance companies. The three
1310 CEOs who will testify after you have all made the case that
1311 their companies use rescission as a tool to rule out fraud by
1312 those who apply for coverage. But at the same time, we find
1313 these companies have also reported savings of an estimated
1314 \$300 million as a result of the rescissions from 2003 to
1315 2007. That doesn't include all their subsidiaries and
1316 doesn't include all their files. But that is what we have
1317 come up with. And like I said, this figure doesn't include
1318 the savings gained by avoiding future medical costs of
1319 rescinded policyholders. So let me ask each of you, do you
1320 believe that the insurance companies use rescissions
1321 primarily as a fraud prevention tool or as a cost-savings
1322 instrument that will help them boost their corporate profits?
1323 Ms. Horton?

1324 Ms. {Horton.} I think it is all about the money.

1325 Mr. {Stupak.} Ms. Raddatz?

1326 Ms. {Raddatz.} It is absolutely about the money.

1327 Mr. {Stupak.} Ms. Beaton?

1328 Ms. {Beaton.} Absolutely indeed. Try to use it, they
1329 will just keep on taking your money.

1330 Mr. {Stupak.} Well, each of you, as I have listened to
1331 your testimony, Ms. Beaton, you were an R.N., Ms. Raddatz,
1332 you are an attorney, and Ms. Horton, you had family members
1333 who were in the medical field, radiologists. You seem like a
1334 little bit more--you had access to people who could help you
1335 on this. What happens in your groups and people you have
1336 talked with, what happens to people who don't have that kind
1337 of support mechanisms within their family? What happens to
1338 them? Ms. Horton?

1339 Ms. {Horton.} They fall through the cracks. You know,
1340 there is nothing--even having radiologists in my family, you
1341 know, I had the opportunity to consult them before filling
1342 out the application. They live cross country. They have
1343 children. They work all the time, you know, and I don't know
1344 what those people would do.

1345 Mr. {Stupak.} Ms. Raddatz?

1346 Ms. {Raddatz.} As I stated in my testimony, my brother
1347 was very fortunate because of the fact that I have education
1348 and I know lots of people, and even all the attorneys that I
1349 know and judges who I went to to ask for help did not know

1350 what to do in this situation other than go through the court
1351 system. Unfortunately, when you have cancer or you are in a
1352 position where your life is shortened to a matter of months,
1353 you can't go through the court system because you don't have
1354 the time to do that. And what do people do? They do--many,
1355 many people throughout the United States do nothing because
1356 they don't have the ways or the means or the knowledge to
1357 take the steps necessary. They don't know all the--I know
1358 hundreds of attorneys. I have been practicing a lengthy
1359 period of time. They don't know all those people I know. So
1360 what do they do? They get the letter and they don't get the
1361 treatment that they need and many of these people die, and
1362 they think that is the way it is supposed to be because they
1363 just don't know what to do. And I believe honestly that the
1364 insurance companies depend upon that lack of knowledge and
1365 lack of laws, federal laws in place, and that is one of the
1366 ways that they encourage their profits.

1367 Mr. {Stupak.} Ms. Beaton, do you want to add anything
1368 on that?

1369 Ms. {Beaton.} I was going to say that a lot of people
1370 in my cancer group, they get letters like this. They just
1371 give up. They fade away and they die.

1372 Mr. {Stupak.} Well, you were fortunate, Ms. Beaton.
1373 You had our ranking member, Mr. Congressman Barton, who

1374 intervened or else you might be with us here today. Was it
1375 clear to you in dealing with the insurance company that if
1376 you didn't have a U.S. Congressman working on your behalf
1377 that your insurance wouldn't have been reinstated?

1378 Ms. {Beaton.} There is not doubt in the world that they
1379 would have even given me the blink of an eye if it hadn't
1380 been for him, and I just could never tell you how he worked.
1381 If you only knew how many hours he worked. They called me
1382 every day just working hours and hours and hours. This took
1383 a long time. This was like a many, many months' process.
1384 This didn't just happen overnight. So for his office to take
1385 that kind of a dedication to me, you know, I will be forever
1386 grateful. If I live and don't die cancer, you know, it will
1387 be because of them. So only because of my Congressman, only
1388 because of him did I get help for my cancer. If it wasn't
1389 for that, it never would have happened.

1390 Mr. {Stupak.} Ms. Raddatz, sort of parallel to Ms.
1391 Beaton there, in your brother's case, the Illinois Attorney
1392 General's Office and Dr. Babs Waldman intervened and actually
1393 had two write two letters to the insurance company. In fact,
1394 one of them is at tab number 4 in the document binder there
1395 if you care to look at it. But the Attorney General's Office
1396 wrote, and I quote, ``I find the behavior on the part of
1397 Fortis Health to be extremely troubling, if not unethical.

1398 Clearly there is no justification for rescinding this
1399 gentleman's insurance beyond avoiding the cost of his future
1400 treatment. To rescind, terminate his policy at this point is
1401 not only devastating but probably fatal to Mr. Raddatz.''
1402 And then in the second letter, the company finally reversed
1403 its decision. So how did your brother know to enlist the
1404 assistance of the attorney general? Was that through you?

1405 Ms. {Raddatz.} Yes, it was absolutely through myself,
1406 and like I said, even I had difficulty in finding that
1407 outlet. It took me a while to get to the Attorney General's
1408 Office but we are fortunate in the State of Illinois to have
1409 a Health Bureau in Lisa Madigan, Attorney General's Office.
1410 We are very, very lucky to have an aggressive unit and they
1411 are available for the citizens of the State of Illinois who
1412 go through the same situation that my brother did. But
1413 again, most people, you know, do not have the knowledge that
1414 I have, and by the way, it took two appeals to them. The
1415 first time she wrote the letter, they said no. So it took a
1416 further letter to them before they did, you know, reverse
1417 their decision.

1418 Mr. {Stupak.} Thank you.

1419 Mr. Barton for questions.

1420 Mr. {Burgess.} Mr. Chairman, may I ask a question?

1421 Mr. {Stupak.} No, it is Mr. Barton's turn unless he

1422 wants to yield you time.

1423 Mr. {Barton.} I will be happy to--

1424 Mr. {Burgess.} It is just purely a technical question.

1425 As a doctor, I get nervous with so many lawyers around me.

1426 There is an active--

1427 Mr. {Stupak.} You should feel secure.

1428 Mr. {Burgess.} It is less than secure. It is the

1429 opposite of secure.

1430 As I understand it, there is an active class-action suit

1431 of one of the witnesses before us this morning?

1432 Mr. {Stupak.} In California, I believe, it has been

1433 going on for some time. I think Ms. Horton is maybe a

1434 plaintiff in that action.

1435 Mr. {Burgess.} Well, the speech and debate clause

1436 notwithstanding, are we subjecting ourselves to possible

1437 subpoena to testify in that court by our questions here today

1438 or our opening statements here today?

1439 Mr. {Stupak.} No, but if you wish to, we could arrange

1440 it.

1441 Mr. {Burgess.} No, I don't want a trip to California.

1442 That is the last thing I want. Again--

1443 Mr. {Stupak.} No, I think we are okay. We are not

1444 asking anything about the nitty-gritty of the lawsuit or

1445 anything like that. This is a committee investigation, and

1446 we would be exempt.

1447 Mr. {Burgess.} Can counsel answer that question for us?

1448 Mr. {Stupak.} Do either one of your care to comment on
1449 it? We are in an official setting. This is an official
1450 hearing of the U.S. Congress. Speech and debate protection
1451 certainly helps us but I don't think any of us are going to
1452 ask about the class-action suit. Yes, the speech and debate
1453 clause certainly applies.

1454 Mr. {Burgess.} I thank the chairman.

1455 Mr. {Stupak.} Mr. Barton, questions, please.

1456 Mr. {Barton.} Thank you, Mr. Chairman.

1457 I want to again thank each of the three witnesses. I
1458 want to make a comment on what Ms. Beaton said about myself.
1459 There are 435 Congressmen and every one of us, our job is to
1460 help constituents. I have four full-time caseworkers. Mr.
1461 Wright, to my left here, was my district director at the
1462 time. I had Kristi and Debra and Jody and Ron, Linda
1463 Gillespie, all of them intervened for you. I came in at the
1464 very end and talked to the president but, you know, not just
1465 myself but every Member of Congress, we help hundreds and
1466 sometimes thousands of people every year. Your case just
1467 happened to be life and death and we put a lot of extra
1468 effort into it because we knew how important it was to get
1469 you health care as quickly as possible. But it is not just

1470 me, it is every Member of Congress that tries to serve our
1471 constituents.

1472 My first question will be to the gentlelady down to the
1473 far right. You said that your application, they asked
1474 several questions several different ways and they were very
1475 tricky. Is it your understanding that that is a standard
1476 practice in the individual insurance market? Do they start
1477 out with the intention of setting you up so that later on
1478 they may disqualify you? Is that your opinion?

1479 Ms. {Horton.} Yes, that is my opinion. You know, I
1480 believe that they ask you the same question several times so
1481 that if you disclose it in one area and then don't realize
1482 that you need to disclose it again, that they can somehow say
1483 then that you have, you know, committed fraud.

1484 Mr. {Barton.} Are you aware since your lawsuit if they
1485 have made some changes to that questionnaire?

1486 Ms. {Horton.} I believe that was one of the things they
1487 were trying to negotiate with Blue Cross, was changing the
1488 application, but I don't know what the status of it is.

1489 Mr. {Barton.} My next question is to the gentlelady
1490 there in the middle. Your brother, has he had his stem cell
1491 transplant?

1492 Ms. {Raddatz.} He did indeed receive the stem cell
1493 transplant. It was extremely successful. It extended his

1494 life approximately 3-1/2 years. He did pass away January 6,
1495 2009, and he was about to have a second stem cell transplant.
1496 Unfortunately, due to certain situations, his donor became
1497 ill at the last minute and so he did pass away on January 6.
1498 But again, it extended his life nearly 3-1/2 years and at his
1499 age, each day meant everything to him and each day that we
1500 had him was wonderful, and my daughter, who is behind me, and
1501 I and his wife and his other brother, Richard, we spent the
1502 last 30 days, every single day with him at his side, and like
1503 I say, there couldn't be any better memorial to my brother
1504 than what this committee is doing because life is so precious
1505 and in spending those last moments of his life with him for
1506 30 days, at the end we realized how important this work you
1507 are doing is and we just want to say again from our family,
1508 thank you all so much. We know with Mr. Gordon here that you
1509 have been working round the clock 7 days a week and very,
1510 very hard, and Mr. Gordon, thank you and your staff for all
1511 your hard work. Thank you.

1512 Mr. {Barton.} Ms. Beaton, what have your doctors told
1513 you your condition would have been had you had the mastectomy
1514 immediately as originally scheduled? Would you have had to
1515 undergo the chemotherapy and is it probable that the cancer
1516 would have spread to the lymph nodes as it apparently has?

1517 Ms. {Beaton.} They said that every day that I put off

1518 the surgery was a really, you know, day that the cells just
1519 multiplied and grew, and I think there is a strong chance
1520 that in the beginning that maybe I didn't have to have--I
1521 could have had a lesser surgery and not have had my lymph
1522 nodes taken out. I would have had to have chemo but maybe
1523 not for quite as long a period of time.

1524 Mr. {Barton.} If it is personal--it is personal--you
1525 don't have to tell us, but would you tell us as much as you
1526 can about your prognosis right now? Is the expectation
1527 positive for your chemotherapy and cancer remission or is it
1528 still up in the air?

1529 Ms. {Beaton.} It is still up in the air.

1530 Mr. {Barton.} Mr. Chairman, my time is about expired.
1531 I am going to yield back. I think I speak for every member
1532 of the committee on both sides of the aisle, we want to hear
1533 from the insurance companies in the next panel, but it is
1534 clear that if in fact there is a practice of going in after
1535 the fact and canceling policies on technicalities, we have
1536 got to do whatever is possible to prevent that. I think a
1537 company does have a right to make sure that there is no
1538 fraudulent information but it is obvious to me that--I will
1539 guarantee you in Ms. Beaton's case there was no fraud
1540 intended, and I am convinced with the other two witnesses
1541 that they were being truthful and honest also, and if a

1542 citizen acts in good faith, we should expect the insurance
1543 companies who take their money to act in good faith also.
1544 And I will tell you, Ms. Beaton, we will monitor your case
1545 and we will stay in touch with Blue Cross/Blue Shield of
1546 Texas and so long as you do what you are supposed to do, I
1547 will guaran-damn-tee you they will do what they are supposed
1548 to do.

1549 With that, Mr. Chairman, I will yield back.

1550 Mr. {Stupak.} Thank you, Mr. Barton.

1551 Ms. Schakowsky for questions, please.

1552 Ms. {Schakowsky.} Thank you, Mr. Chairman, and after
1553 hearing the testimony, I want to thank the witnesses even
1554 more for sharing this.

1555 I wanted to talk about rescissions for unrelated medical
1556 conditions. I understand that they scour the records to find
1557 anything but, Ms. Beaton, let me understand what happened to
1558 you. After your insurance policy began, you developed breast
1559 cancer and the insurance company decided to investigate your
1560 application but it didn't find any evidence that you had
1561 breast anything before you got your policy, did it?

1562 Ms. {Beaton.} No.

1563 Ms. {Schakowsky.} So it was rescinded because
1564 essentially of pimples, right? Is that what you're saying?

1565 Ms. {Beaton.} They rescinded because of--what it all

1566 started with was the red flag. What that means is something
1567 suspicious, so they red flag you. Then they go back and they
1568 just cut your chart apart, and what they found was on my
1569 weight, I think I put down--I said what woman is going to
1570 tell you what she really weighs, you know. I weighed more
1571 than what I put down, and they said that they might not have
1572 given me a policy because I was overweight. And the second
1573 thing was, I had--in my early years I had a previous fast
1574 beating of my heart and I didn't have a problem with that
1575 anymore, but anyway, that was brought up. Everything they
1576 could possibly dig up in my whole life history got brought
1577 up, unrelated to the cancer, nothing related to the cancer.

1578 Ms. {Schakowsky.} So if we lie about our weight at all,
1579 we better look out, huh?

1580 Ms. {Beaton.} They will get you.

1581 Ms. {Schakowsky.} I better change my driver's license.

1582 Ms. Raddatz, it sounds like your brother had a similar
1583 experience. He signed up for an insurance policy, then was
1584 stricken with an aggressive form of lymphoma, and the
1585 insurance company, which is now part of Assurant,
1586 investigated his application but it didn't find any evidence
1587 that your brother had cancer before his insurance policy,
1588 right?

1589 Ms. {Raddatz.} That is correct.

1590 Ms. {Schakowsky.} So--

1591 Ms. {Raddatz.} He did not have cancer prior to--at the
1592 time he signed up, he did not have cancer.

1593 Ms. {Schakowsky.} So it rescinded his policy based on
1594 alleged misstatement about gallstones and you said aneurysm,
1595 which is what? A weak blood vessel, right? Does that have
1596 anything to do with anything?

1597 Ms. {Raddatz.} Nothing whatsoever.

1598 Ms. {Schakowsky.} And he didn't--

1599 Ms. {Raddatz.} The gallstones actually, like I said, he
1600 never even knew he had gallstones. He actually wrote down he
1601 had kidney stones and was treated for kidney stones. So when
1602 he got that letter, he thought that was an error, oh, they
1603 must have meant the kidney stones, but he disclosed that he
1604 did have kidney stones and they knew that when they gave him
1605 the insurance. He never knew he had minor gallstones, never
1606 to his death was ever treated for any gallstones, and was
1607 never treated for any aneurysm.

1608 Ms. {Schakowsky.} So in addition then to having an
1609 unrelated medical condition, it was something he didn't know
1610 about at all. So when we hear, as perhaps we will, about
1611 fraud from the insurance companies, he even mentioned kidney
1612 stones that he didn't have, are you saying?

1613 Ms. {Raddatz.} He did have kidney stones and he did

1614 disclose those and was treated for those, and he was given
1615 insurance despite the fact that he had kidney stones. But
1616 had they not been able to find his doctor, who was retired
1617 and on a fishing trip in another State, they still might not
1618 have believed him because he had no knowledge of it.
1619 Luckily, they were able to find the doctor, who was able to
1620 say oh, yes, I never discussed those issues with him, I never
1621 treated him for those, they were very minor and they appeared
1622 on a CT scan but we never engaged in any treatment for those
1623 whatsoever and I never disclosed them to him.

1624 Ms. {Schakowsky.} But ultimately even that, didn't it
1625 take the attorney general to get it changed?

1626 Ms. {Raddatz.} Oh, yes, it did, it absolutely did.
1627 Like I said, Lisa Madigan, the Attorney General's Office, and
1628 Dr. Babs Waldman were wonderful and their staff were just
1629 incredible. They were working daily on this file because
1630 they knew that the clock was ticking every day and their
1631 investigations were--

1632 Ms. {Schakowsky.} But what I am asking is, even if they
1633 found the doctor on the fishing trip and the doctor had said
1634 what he thought, that wasn't enough apparently?

1635 Ms. {Raddatz.} It wasn't. At that point they still
1636 wrote a letter saying no, too bad, it was a material lack of
1637 disclosure, and Dr. Waldman had to contact them again and

1638 discuss it further.

1639 Ms. {Schakowsky.} And Ms. Horton, your situation is
1640 that your policy was rescinded because you were seeking some
1641 insurance coverage, or how did that work for you?

1642 Ms. {Horton.} I was seeking the policy when I was going
1643 over from a group health insurance plan.

1644 Ms. {Schakowsky.} So this is just a denial from the
1645 beginning because of--

1646 Ms. {Horton.} I was accepted and then the first time I
1647 went to see a doctor I received a letter from Blue Cross
1648 stating that they wanted all of my medical records, and it
1649 was a bill for just routine blood work. It was to test my T4
1650 level, which is your thyroid hormone, and so it was routine
1651 blood work that anyone who has an underactive thyroid, which
1652 I disclosed, would get and I had paid almost three times more
1653 in premiums than they needed to pay out and they still sent
1654 me to this, you know, post-claims underwriting department
1655 where they went through my medical records, they found, you
1656 know, a mention of something in her notes that she never
1657 disclosed to me, and both of my doctors wrote letters in
1658 support of the fact that they had not discussed the condition
1659 with me that they suspected I had but could prove.

1660 Ms. {Schakowsky.} So we know that--it seems obvious
1661 that anything that might relate to cancer treatment they are

1662 going to scour the records. In your case, it might have been
1663 something about the blood work that you were having?

1664 Ms. {Horton.} In my case, it just proves that there is
1665 no condition too small that they are willing to send you to
1666 this department for. You know, I did not have anything even
1667 close to life-threatening nor as expensive as some of the
1668 people on the panel, and it just shows you that you can't be
1669 too young or you can't be too healthy for them to send you to
1670 this department.

1671 Ms. {Schakowsky.} Thank you, Mr. Chairman.

1672 Mr. {Stupak.} Mr. Burgess for questions, please.

1673 Mr. {Burgess.} Thank you, Mr. Chairman.

1674 Ms. Beaton, let me ask you, Blue Cross and Blue Shield
1675 came back to you after finding out you needed the surgery and
1676 said that they were taking your insurance and the date of
1677 rescission was dated back to the date of enactment of the
1678 insurance. Is that correct?

1679 Ms. {Beaton.} I am kind of hard of hearing.

1680 Mr. {Burgess.} Your rescission was effective on 12/07,
1681 which was the date that the insurance was initiated. Is that
1682 correct?

1683 Ms. {Beaton.} Right. They gave me back all my
1684 premiums.

1685 Mr. {Burgess.} Okay. That was going to be my question.

1686 They refunded the--

1687 Ms. {Beaton.} I never cashed the check because Mr.
1688 Barton told me never to cash it and I never did. They
1689 rescinded all my money back to the day that they said--in
1690 simple language, they wanted nothing to do with me. They
1691 gave me back every penny that I had ever given them and they
1692 considered never being insured by them.

1693 Mr. {Burgess.} And Ms. Raddatz, what about in your
1694 brother's situation? Was there a refund of premium back to
1695 the date of the rescission?

1696 Ms. {Raddatz.} Yes, they didn't actually get to that
1697 point because it got resolved before they refunded the money
1698 but they sent a letter stating yes, you are rescinded to the
1699 date of the original contract, which was before my brother
1700 had any cancer treatments at all, and \$200,000 back, so my
1701 brother would have to pay out of pocket over \$200,000 in
1702 medical expenses.

1703 Mr. {Burgess.} But they never got to the point where
1704 they sought that refund from your brother?

1705 Ms. {Raddatz.} Well, again, the \$200,000 was the amount
1706 that his medical bills--

1707 Mr. {Burgess.} So those were subsequent bills?

1708 Ms. {Raddatz.} Right. That would have been what he
1709 would have had to pay out because they were rescinding their

1710 contract and so they were then stating we are rescinding all
1711 the way back to the original date of the contract so you have
1712 never had any insurance at all for the entire time you have
1713 had cancer. You now have no insurance.

1714 Mr. {Burgess.} So that was actually--that retroactive
1715 pronouncement also dealt with the money that they had used to
1716 pay for his cancer treatment to date. Is that correct?

1717 Ms. {Raddatz.} That is correct.

1718 Mr. {Burgess.} Now, in your brother's situation also, I
1719 think you said that he was told he would have to have a
1720 certain sum of money or he couldn't get the bone marrow
1721 transplant. Is that correct?

1722 Ms. {Raddatz.} That is correct.

1723 Mr. {Burgess.} But that wasn't the insurance company
1724 that told him that, that was the medical facility?

1725 Ms. {Raddatz.} That was the hospital coordinator. When
1726 I called to literally beg her to schedule the stem cell
1727 transplant because my brother was on pins and needles being
1728 ill, going through aggressive chemotherapy and readying
1729 himself for this transplant, which is a long step-by-step
1730 procedure medically, then they wouldn't schedule him because
1731 the insurance company said he is no longer insured so we will
1732 not schedule you for your stem cell transplant that you were
1733 supposed to have within the next 3 weeks, we will not

1734 schedule you. So I got on the phone and literally begged
1735 her, and no.

1736 Mr. {Burgess.} Let me ask you a question. It doesn't
1737 really have to do with the subject of the hearing today but
1738 it figures into the larger discussion that we are having.
1739 Was any other plan delineated for you then, another option
1740 you might have would be medical school at Northwestern or
1741 Cook County or were there any other options discussed?

1742 Ms. {Raddatz.} No, there really weren't because my
1743 brother's doctor was one of the most renowned doctors in the
1744 whole world on the specific routine of treatment and he had a
1745 very specific type of cancer that really had to be treated by
1746 that doctor in that hospital at that time, and you can't just
1747 say well, okay, you can have it a couple months down the road
1748 or you can wait. I mean, again, the Attorney General's
1749 Office realized thankfully because it is headed by a doctor,
1750 medical doctor, that time was of the essence.

1751 Mr. {Burgess.} It is just that I can recall multiple
1752 times when I was in practice you come up on these situations
1753 and you find a way to make it work for the patient. I guess
1754 I am a little frustrated in your situation in that you were
1755 essentially allowed or offered no other option. I appreciate
1756 the fact that particularly for that type of non-Hodgkin's
1757 lymphoma that it may require very, very specialized type of

1758 care. My frustration is as a physician, I just cannot you
1759 tell the times that I found another hospital or another way
1760 to make it happen and not wait the lengths of time that you
1761 all are discussing.

1762 Ms. Beaton, in Tarron County, I mean, there is a county
1763 hospital. Was that ever--did anyone ever try to help you
1764 through that tangle to try to get any care through John Peter
1765 Smith?

1766 Ms. {Beaton.} I couldn't qualify for that, but what I
1767 did do is, I moved in with my sister in Cedar Hill for a
1768 while so I could declare residency and went to Parkland
1769 Hospital, the Dallas county hospital, tried to get help
1770 there. You get on a waiting list for a mastectomy. And
1771 three or four times I went there and they lost my medical
1772 records. They said why are you here. I said I am here, I
1773 have cancer, I need to get a mastectomy. They said we will
1774 put you on the waiting list. Well, I do believe with all my
1775 heart that today my name still wouldn't be up on the waiting
1776 list because they never even contacted me back, but I am
1777 thankful to say that in trying to get help, like you said,
1778 going to all the county hospitals, applying for the State
1779 programs, doing all that kind of stuff, Mr. Barton got my
1780 insurance reinstated and I was able to have insurance with
1781 the original doctor who I wanted to have insurance with.

1782 Mr. {Burgess.} Sure, and I appreciate that and I think
1783 that is--I believe in continuity of care and I believe that
1784 is important, and again, the other aspect is not really a
1785 part of our discussion today but it is part of our broader
1786 discussion as we talk about strategies for the future. I
1787 want to thank every one of our panelists for being here
1788 today. Ms. Horton, I didn't get to you. It is not because I
1789 was afraid to get to you, I just didn't have an opportunity,
1790 but thank you too for your testimony as well. It was all
1791 very important today.

1792 Thank you, Mr. Chairman. I will yield back.

1793 Mr. {Stupak.} Mr. Gingrey for questions, please.

1794 Mr. {Gingrey.} Mr. Chairman, thank you, and I am going
1795 to direct my question to Ms. Beaton.

1796 Am I pronouncing that right?

1797 Ms. {Beaton.} It doesn't matter, Beaton, Beaton.

1798 Mr. {Gingrey.} Ms. Beaton, we of course heard and
1799 listened very intensely to your testimony and quite
1800 compelling, and I wanted to take one quote from your written
1801 testimony and I think you said when you get on a waiting
1802 list, cancer grows, and I think that was in reference to the
1803 fact as you just testified to Dr. Burgess that you were on
1804 that waiting list at the county hospital. There was an
1805 alternative but thank God that your Congressman and my

1806 colleague, Joe Barton, was able to intervene and you were
1807 able to get the care at the private hospital and by your
1808 physician that you trusted and that you wanted to do the
1809 surgery. This statement that you made is absolutely right.
1810 I don't know if you know it, but I am a physician too, an
1811 OB/GYN doctor before being elected to Congress, and your
1812 statement is a profound one indeed: when you get on a
1813 waiting list, cancer grows. And when we look at statistics
1814 of countries where you routinely get put on a waiting list
1815 like the U.K. and others, in particular in the treatment of
1816 breast cancer, in our country where hopefully you don't get
1817 put on a waiting list when you have breast cancer, you get
1818 operated on quickly, the 5-year overall survival rate for
1819 breast cancer is 98 percent. But in the U.K. system where
1820 you frequently get put on a waiting list, the 5-year survival
1821 rate for breast cancer is 78 percent. That is a significant
1822 change, and as you described to us, that 2-centimeter mass
1823 grew to 7 centimeters and lo and behold you have to have your
1824 lymph nodes removed and I guess some of those were positive
1825 by the time you finally got operated on. Is that the case?

1826 Ms. {Beaton.} Yes.

1827 Mr. {Gingrey.} Well, with that information, let me just
1828 ask you this question, and it relates to you in particular
1829 but it relates to everybody in general, and I would

1830 appreciate your thoughts on ways that you think that we can
1831 strengthen the private market so that other people, anyone
1832 with chronic illness can find affordable health insurance or
1833 do you think we should turn over our health care system lock,
1834 stock and barrel to the compassion and efficiency of our
1835 federal bureaucracy?

1836 Ms. {Beaton.} All I can say that I did go many, many
1837 different places trying to get help and I spent hours and
1838 quit working and did all my focusing, instead of focusing on
1839 getting well and focusing on my cancer, I focused on trying
1840 to get treatment, and I went to every hospital in Dallas. I
1841 went to county hospital, I went to Fort Worth, I went
1842 everywhere, and I don't know how to fix it but all I know is
1843 there something terribly wrong with the health care system
1844 because when you go to big hospitals and there is so many
1845 people there waiting for help, I went to all the clinics. I
1846 sat with all the people that I just--you can't even imagine
1847 how many people are there waiting for help. You spend hours
1848 and hours. You probably spend the whole day trying to see a
1849 doctor. I did that. I did that for weeks and never got
1850 help. So and the bad thing about that is, when you go to
1851 different hospitals they give you different opinions. Every
1852 time I went to a different hospital, my tumor was a different
1853 size. Every time I went to another hospital, one person

1854 wanted to do one thing, one person wanted to do another. You
1855 get a difference in diagnosis, a difference in treatment
1856 plans. So who do you listen to, who do you know to listen
1857 to? And I don't know how to fix it but all I know is, when
1858 you have to go through this like every one of us has been
1859 through what we have been through, you just realize that it
1860 is something that is broken.

1861 Mr. {Gingrey.} Ms. Beaton, I am going to reclaim my
1862 time because I just have a few seconds left, but I really
1863 thank you for that testimony, and I think you are absolutely
1864 right. There is something that needs to be fixed, something
1865 is broken, and when we hear from the second panel from the
1866 insurance companies, I am going to make some suggestions to
1867 them how we can fix this system, but it is my firm belief,
1868 Ms. Beaton, the other two, Ms. Horton, Ms. Raddatz, that we
1869 can fix this system without, as I say, turning it over lock,
1870 stock and barrel to a federal bureaucracy that routinely is
1871 going to ration and put people on the waiting list. But we
1872 will get into that later and I want to thank all three of you
1873 for being here today and giving us such compelling testimony.

1874 Mr. {Stupak.} We will go to Mr. Walden, but please
1875 don't accept Mr. Gingrey's description of a possible health
1876 care plan for the Nation based upon those comments. Some of
1877 us on the other side see it a little differently. But Mr.

1878 Walden for questions, please.

1879 Mr. {Walden.} Thank you, Mr. Chairman. I appreciate
1880 the opportunity. I had to step out to another hearing I am
1881 involved in upstairs but I read your testimony this morning
1882 and so I appreciate what you have been through, although none
1883 of us can really understand what it is like to be in your
1884 shoes or that of your loved ones. It is not a good thing.

1885 We have two physicians here, both Dr. Gingrey and my
1886 colleague from Texas, Dr. Burgess, and I think that is good
1887 to have. I hope at some point, given some CMS's role in
1888 overseeing HIPAA that perhaps we could have the federal
1889 agency that also has a role in this to come before our
1890 subcommittee as well to find out their take on what is
1891 happening.

1892 Ms. Horton, you stated that you think the applications
1893 are deliberately confusing. I have looked through some of
1894 those, and I understand what you mean. Could you be a little
1895 more specific the kinds of questions that you found difficult
1896 and confusing?

1897 Ms. {Horton.} I haven't looked at the application in 4
1898 years since I first filled it out so I can't be super
1899 specific but I do remember them, you know, after looking at
1900 it again with my sister and brother-in-law, they both said
1901 you would have to be a doctor or a lawyer in order to figure

1902 out the application and fill it out to 100 percent accuracy.

1903 Mr. {Walden.} How would each of you improve that

1904 application process? Because it seems to me that that is

1905 kind of the crux of the argument here is, there are things

1906 that you didn't know that were on your medical records or

1907 your loved one's medical records that they didn't know. I

1908 don't know you ever disclaim knowledge of something you have

1909 no knowledge of. That to me is one point here. And then the

1910 second is to know as a layperson if you are on some

1911 medication years ago and you haven't been taking it, it would

1912 be easy to forget that, I would think, or perceive that you

1913 no longer have whatever that was that you took the medication

1914 for so you don't note it or you forgot it, and yet, you know,

1915 we also know there are cases of fraud and those people that

1916 were like you with individual policies paying more because

1917 people were deliberately trying to get on the rolls, and our

1918 files that we got from the companies indicate that too. So I

1919 am trying to figure out, how do we get a balance here where

1920 people like you and your loved ones aren't rescinded from

1921 coverage and yet find this balance and it seems to get back

1922 to the initial application process, the review of those

1923 applications and then better understanding for those of us

1924 who may be signing up for that type of health insurance, so I

1925 am curious, how would you fix at least that part of the

1926 process? Anyone want to tackle that?

1927 Ms. {Raddatz.} I would just state that the insurance
1928 company at the time you apply for insurance and you disclose
1929 your doctors, they should be the ones that have to do the
1930 investigations. If they don't do the proper investigation at
1931 the time you apply, they shouldn't have the right to go back
1932 years later. You know, there is a 2-year window for the
1933 insurance companies by which they can do their
1934 investigations. No, that is wrong. They should have to
1935 investigate before they give you your insurance. They have
1936 all the opportunity to investigate then. You disclose your
1937 doctors, let them get the records, let them look at and comb
1938 the records at that time. Why are they doing that later on
1939 when people--

1940 Mr. {Walden.} When you have a big claim.

1941 Ms. {Raddatz.} Pardon me? Absolutely. I mean, if that
1942 isn't intentional, what is? They want to save money and wait
1943 until you have claims before they spend the investigative
1944 money to do what they should do at the beginning. So all
1945 this time they haven't done their job. They are taking the
1946 consumer's money and the consumer thinks I am insured, but I
1947 am not insured and that is not right. That law needs to be
1948 changed.

1949 Mr. {Walden.} Ms. Beaton, do you want to comment on

1950 that?

1951 Ms. {Beaton.} Yes. Just like myself, I asked could I
1952 have a physical. I wanted to have a physical for insurance
1953 and they said no, we don't do that. So I even offered to let
1954 them have a physical on me, which to me that would be a good
1955 thing. You know, that way if there is anything they don't
1956 want, they don't have to take you.

1957 Mr. {Walden.} We have that in Medicare, I think.

1958 Ms. {Beaton.} They don't do that at all, so they don't
1959 want to spend the money for a physical to give it to you to
1960 rule you out then so you don't get your hopes up and think
1961 you have insurance.

1962 Mr. {Walden.} Okay.

1963 Ms. {Horton.} I completely agree with what Ms. Raddatz
1964 said, and I just wanted to add, you know, after this practice
1965 happens, which hopefully we are going to stop it from
1966 happening in the first place, but then when your physicians
1967 write letters on your behalf and aid you in appealing to
1968 these insurance companies, the fact that they give no weight
1969 whatsoever to what these physicians who have been treating
1970 you for years say, it is totally unconscionable.

1971 Mr. {Walden.} I was reading through some of those
1972 examples of people who, you know, were rescinded and their
1973 physician says the patient would have on idea of this, it is

1974 a note I put in the file I never shared with them, and that
1975 doesn't seem right. Would it be helpful--and I realize I
1976 have run over my time here, but would it be helpful if there
1977 were also--it seems like there is yes and no columns on these
1978 forms. Given that I don't think any of you are physicians,
1979 would it helpful if there maybe was an unsure, don't know
1980 column as well that you could check which then I would think
1981 if I am the insurer would cause me to go ah, there may be
1982 something here I should look at further. Because, I mean,
1983 the insurers, if you read through their testimony, they make
1984 the case that look, it is a very small percentage, although
1985 it is a very painful percentage--I am just telling you what
1986 they are telling us--small percentage. If we did everyone,
1987 it would slow down people getting access to insurance, blah,
1988 blah, blah. And so they are saying, you know, we go
1989 investigate those where we have cause or an issue. That is
1990 something we will get into on the next panel. But, you know,
1991 there is this notion that is a very small segment of the
1992 population and so, you know, to get people covered they go
1993 this direction.

1994 Ms. {Horton.} I don't believe that it is a very small
1995 segment of the population. I believe that they send anyone
1996 who sends in a claim to this post-claims underwriting
1997 department, and I have heard many people who formerly worked,

1998 you know, at insurance companies talk about these secret, you
1999 know, specific units that are designed to find errors or
2000 omissions or whatever you want to call them in people's
2001 records so that they can go back and save money.

2002 Mr. {Walden.} And I think we actually get some of that
2003 testimony from our final witness from Georgetown that says it
2004 may be a small percentage but it is perhaps a big percentage
2005 of the claim costs.

2006 Mr. {Raddatz.} And I would just like to say, those are
2007 the people you know of. There are many people out there who
2008 lose their insurance and then go on Medicaid, go on welfare,
2009 go without insurance. You are not aware of who those are.
2010 Those are their numbers. Those aren't the consumer's
2011 numbers. We don't really know how many people are out there,
2012 and you know what? I don't care if there is just the three
2013 of us. That is too many. One too many who dies because an
2014 insurance company cancelled their insurance is one too many.

2015 Mr. {Walden.} Ms. Beaton, any final comment? I just
2016 wondered if you had any final comment on that point. It is
2017 okay if you don't.

2018 Ms. {Beaton.} I am real hard of hearing. What did you
2019 say?

2020 Mr. {Walden.} I just wondered if you had any final
2021 comment.

2022 Ms. {Beaton.} Oh, I just agree with both of what they
2023 said and I know so many people in my cancer group that I wish
2024 could be here to talk to you, that you wouldn't believe their
2025 stories. So it is common practice and you will never know
2026 how common it is, and when they hire nurses to investigate
2027 who sit there their whole shift doing nothing but review
2028 medical records looking for things to get rid of people, and
2029 that just shows you right there.

2030 Mr. {Walden.} Indeed. Thank you very much.

2031 Thank you, Mr. Chairman, for your indulgence.

2032 Mr. {Stupak.} Thank you. I ask unanimous consent that
2033 a statement from Rosa DeLauro, Member, be placed in the
2034 record.

2035 [The information follows:]

2036 ***** COMMITTEE INSERT *****

|

2037 Mr. {Stupak.} Let me just ask a question. You know, we
2038 have focused sort of on what happened to you three as we
2039 should and rightfully so but, you know, we found close to
2040 20,000 cases in looking where there were rescissions over the
2041 last few years from three insurance companies here who will
2042 be testifying on the next panel, like a spouse gets in a
2043 bicycle accident and had some fractured bones and they denied
2044 it because her husband had back surgery. What bearing that
2045 had on the lady's fractures is beyond me. But that is what
2046 we are seeing. But Ms. Beaton, one thing I want to ask you,
2047 in your testimony you stated, and I going to quote now, that
2048 you ``live with fear every day of my insurance company.``
2049 What are you afraid your insurance company might do?

2050 Ms. {Beaton.} Without a doubt, some day they will
2051 cancel me. Some day Mr. Barton won't be there to protect me,
2052 and you know, I am young and they will find something to get
2053 rid of me. Somehow I won't have insurance. Some day I will
2054 be--out of Blue Cross and Blue Shield's record they will find
2055 a way to get rid of me, and coming here today I think will
2056 just about maybe do it.

2057 Mr. {Stupak.} So if your lost your insurance, you are
2058 afraid you would never get insurance from another company
2059 since you have been rejected once?

2060 Ms. {Beaton.} If I lost my insurance what?

2061 Mr. {Stupak.} Are you afraid you would not be able to
2062 pick up another individual health insurance policy?

2063 Ms. {Beaton.} I am uninsurable. The only way I could
2064 ever get insurance, through being a registered nurse I could
2065 go back to work in a hospital and be covered under a group.
2066 They could not deny you that way. I have done a lot of
2067 research about that. But as far as the individual policy,
2068 for the rest of my life I am uninsurable.

2069 Mr. {Stupak.} Because of your preexisting condition?

2070 Ms. {Beaton.} Because of my cancer. Once you have
2071 cancer, you are uninsurable forever.

2072 Mr. {Stupak.} Thank you.

2073 I apologize, Mr. Deal, I didn't see you there, but 5
2074 minutes for questions.

2075 Mr. {Deal.} That will teach me to wear a light-colored
2076 suit. Thank you, Mr. Chairman, and I just simply wanted to
2077 express my appreciation to the witnesses for coming today.
2078 Certainly none of us condone abuses within the system, and
2079 you have pointed out some of those that appear to be in that
2080 category, and I know that it took a great deal of effort on
2081 your part to come and we appreciate your courage and we
2082 appreciate your time that you have devoted to it. I do not
2083 have any questions of you. I think your testimony speaks for

2084 itself.

2085 Thank you, Mr. Chairman. I yield back.

2086 Mr. {Stupak.} Well, that was pretty quick. Well, let
2087 me thank this panel for their testimony, their heartfelt
2088 testimony, and thank you for shedding some light on this and
2089 bringing a human face to a very serious problem. Thank you
2090 all for coming and thank you for your testimony.

2091 I would now like to call up our second panel of
2092 witnesses. On our second panel, we have Don Hamm, who is the
2093 chief executive officer of Assurant Health; Mr. Richard
2094 Collins, who is the chief executive officer at Golden Rule
2095 Insurance Company, which is owned by United Health Group; Mr.
2096 Brian Sassi--am I saying that right?

2097 Mr. {Sassi.} Sassi.

2098 Mr. {Stupak.} Sassi, who is president and chief
2099 executive officer at WellPoint Incorporated, and Ms. Karen
2100 Pollitz, who is the research professor at Georgetown
2101 University Health Policy Institute. Welcome, all our
2102 witnesses. It is the policy of this subcommittee to take all
2103 testimony under oath. Please be advised that you have the
2104 right under the rules of the House to be advised by counsel
2105 during your testimony. Do you wish to be represented by
2106 counsel during your testimony?

2107 Mr. {Hamm.} Yes, if necessary.

2108 Mr. {Stupak.} Mr. Hamm, you would?

2109 Mr. {Hamm.} Yes, if necessary.

2110 Mr. {Stupak.} Okay. So if any time during the
2111 questions if you want to get advice from counsel, just let us
2112 known and we will allow you. Counsel can't testify but they
2113 can advise you. Mr. Collins?

2114 Mr. {Collins.} No, sir.

2115 Mr. {Stupak.} Mr. Sassi?

2116 Mr. {Sassi.} No, sir.

2117 Mr. {Stupak.} Ms. Pollitz?

2118 Ms. {Pollitz.} No.

2119 Mr. {Stupak.} So you are already standing. Let us
2120 raise your right hand and we will take the oath.

2121 [Witnesses sworn.]

2122 Mr. {Stupak.} Let the record reflect that the witnesses
2123 replied in the affirmative. They are now under oath
2124 beginning with your opening statement. You have 5 minutes
2125 for an opening statement. You may submit a longer statement
2126 for inclusion in the record. Mr. Hamm, if you don't mind, I
2127 will start with you, start from my left and go to our right.

|
2128 ^TESTIMONY OF DON HAMM, CHIEF EXECUTIVE OFFICER, ASSURANT
2129 HEALTH, ASSURANT; RICHARD COLLINS, CHIEF EXECUTIVE OFFICER,
2130 GOLDEN RULE INSURANCE COMPANY, UNITEDHEALTH GROUP; BRIAN A.
2131 SASSI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CONSUMER
2132 BUSINESS, WELLPOINT, INC.; AND KAREN POLLITZ, RESEARCH
2133 PROFESSOR, GEORGETOWN UNIVERSITY HEALTH POLICY INSTITUTE

|
2134 ^TESTIMONY OF DON HAMM

2135 } Mr. {Hamm.} Chairman Stupak, Congressman Walden,
2136 members of the subcommittee, I am Don Hamm, president and CEO
2137 of Assurant Health. I welcome this opportunity to
2138 participate in the hearing today. It is through dialog like
2139 this that we can continue to address one of the most
2140 challenging issues of our time, providing health insurance
2141 coverage for all Americans.

2142 We appreciate that this subcommittee and Congress are
2143 committed to finding the right ways to address health care
2144 reform. If a system can be created where coverage is
2145 available to everyone and all Americans are required to
2146 participate, the process we are addressing today, rescission,
2147 becomes unnecessary because risk is shared among all. I
2148 passionately believe that all Americans must have access to

2149 high-quality, affordable health care regardless of their
2150 income or their health status, and I am proud to lead a great
2151 company that provides health coverage to individuals and
2152 families in 45 States. People need our products and we are
2153 proud to provide them to thousands of Americans.

2154 Individual medical insurance is portable and belongs to
2155 each consumer. In these uncertain economic times, individual
2156 medical provides benefits to a growing population who do not
2157 receive employee-sponsored health coverage. That is why
2158 individual medical is so important. We work hard to ensure
2159 our health questions include simple, easy and straightforward
2160 language. A correct medical history is necessary so we can
2161 fairly assess the health risk of each applicant. The vast
2162 majority of people complete the enrollment form accurately.
2163 The underwriting process depends on this information and we
2164 rely upon consumers' disclosures. People applying for
2165 individual insurance are given multiple opportunities to
2166 verify, correct and complete the information they provide.
2167 They are given 10 days to notify us of any inaccurate
2168 information or to reject the coverage.

2169 As Assurant Health, we are acutely aware of how our
2170 coverage affects people's lives. It is a responsibility we
2171 take very seriously. Unfortunately, there are times when we
2172 discover information that was not disclosed during the

2173 enrollment process, and when this information is brought to
2174 our attention, we ask additional questions to determine if
2175 the information would have been material to the underwriting
2176 risk we assumed. Accurate risk assessment keeps rates lower
2177 for all.

2178 Assurant Health does not want to rescind coverage. We
2179 are in fact in the business of providing health care
2180 coverage. We regret the necessity of even a single
2181 rescission. The decision is never easy, and that is why we
2182 follow a fair and thorough process that includes a number of
2183 careful reviews. Here is how our system works. When we
2184 become aware of a condition that existed prior to the
2185 application date and that information was not disclosed, a
2186 senior underwriter reviews the omitted information to
2187 determine if it was material to the underwriting decision.
2188 Then the underwriting manager verifies the analysis. If the
2189 omission was not material, the review is complete. If the
2190 omission was material, the underwriter makes a recommendation
2191 to a review panel, which includes at least one physician.
2192 This review panel evaluates the information and makes a
2193 decision. The amount of the potential claim is never
2194 disclosed to the underwriters or to the review panel. The
2195 decision to rescind is only made when the undisclosed
2196 information would have made a material difference to the

2197 underwriting decision based on our guidelines. The consumer
2198 is given the opportunity to provide additional information
2199 before coverage is rescinded. This information is evaluated
2200 and a decision is made. If the consumer is dissatisfied with
2201 the decision, we provide multiple opportunities to appeal,
2202 which now includes an option to request a medical review by
2203 an independent third-party company.

2204 Rescission affects less than one-half of 1 percent of
2205 the people we cover. Yet it is one of many necessary
2206 protections for affordability and viability of the individual
2207 health insurance in the United States. Assurant Health
2208 supports the principle that everyone in the United States
2209 deserves affordable health care and we see reform of our
2210 Nation's health care system as a shared responsibility
2211 between doctors, consumers, health insurers and policymakers
2212 who collectively can deliver effective solutions to provide
2213 coverage for all Americans, and that is why at Assurant
2214 Health we will continue to participate in efforts to reform
2215 and improve health care in America. Thank you.

2216 [The prepared statement of Mr. Hamm follows:]

2217 ***** INSERT 4 *****

|

2218 Mr. {Stupak.} Thank you, Mr. Hamm.

2219 Mr. Collins, your opening statement, please, sir.

|
2220 ^TESTIMONY OF RICHARD COLLINS

2221 } Mr. {Collins.} Good morning, Chairman Stupak, Ranking
2222 Member Walden, members of the subcommittee, thank you for
2223 inviting me to testify today. My name is Richard Collins. I
2224 am the CEO of Golden Rule Insurance Company. We are a
2225 UnitedHealth Group business that sells health insurance
2226 policies to individuals and their families. Golden Rule has
2227 been offering this important coverage for over 60 years. We
2228 seek to offer innovative and affordable products to meet the
2229 diverse health care and financial needs of our customers.

2230 In our current health care delivery system, the
2231 individual insurance market operates primarily for families
2232 who do not have access to group insurance or government
2233 benefit programs. We have long advocated that our country
2234 needs comprehensive reform that includes modernizing our
2235 delivery system, tackling the fundamental drivers of health
2236 care cost growth, strengthening employer-based coverage, and
2237 providing well-targeted support for low-income families. To
2238 be effective, we believe the modernization of the individual
2239 market needs to contain all the following elements.

2240 First of all, individuals must be required to obtain and
2241 maintain health coverage so that everyone participates in

2242 both the benefits and the costs of the system. Second,
2243 insurers should be able to set rates within limited
2244 parameters of age, geography, family size and benefit design,
2245 just as they do in the group market. However, and I want to
2246 emphasize this point, rates should not vary on health status
2247 and coverage should be guaranteed regardless of preexisting
2248 medical conditions for those that maintain continuous
2249 coverage. Third, low- and middle-income families should
2250 receive some form of subsidy to ensure they have the same
2251 access to care as all Americans. Fourth, insurers should be
2252 able to offer a wide spectrum of plan designs to allow
2253 American families the flexibility to choose a plan that fits
2254 their budget, and lastly, the tax treatment of individual
2255 insurance premiums should be on par with employer coverage.

2256 Until comprehensive reform is achieved, we believe the
2257 medical underwriting of individual policies will continue to
2258 be necessary. If these changes are instituted, most of the
2259 reasons for individual medical underwriting as well as most
2260 of the reasons for rescissions and terminations of policies
2261 would cease to exist. Our company mission is to improve the
2262 health and well-being of all Americans. In the individual
2263 market, we accomplish this by covering as many consumers as
2264 possible with quality health insurance. We also work to keep
2265 our products affordable to accomplish our mission because the

2266 primary barrier to access is affordability. We understand
2267 that we have a responsibility to treat all of our
2268 policyholders fairly and I assure you, we take this
2269 responsibility very seriously.

2270 Unfortunately, for a variety of reasons, some people
2271 choose not to purchase individual health insurance until they
2272 have a significant health event. This decision not only has
2273 enormous physical impact and financial impact on these
2274 families but raises the cost of health care for everyone. As
2275 you know, the practice of rescission has long been recognized
2276 by the laws of virtually every State. Rescission is uncommon
2277 but unfortunate and a necessary recourse in the event of
2278 material and at times intentional or fraudulent misstatement
2279 or omission on an insurance application. Under our current
2280 system, failure to act on these cases is fundamentally unfair
2281 to those working families that play by the rules because it
2282 would severely limit our ability to provide quality and
2283 affordable health insurance. In the rare event that we
2284 determine it is necessary to rescind coverage and after a
2285 thorough investigation of the facts and in compliance with
2286 State laws and regulations, we follow practices and
2287 procedures designed to ensure a fair and transparent process
2288 for the individual. And as I indicated, our use of
2289 rescission is rare. Less than one-half of 1 percent of all

2290 individual insurance policies in 2008 were terminated or
2291 rescinded and in each case the affected customer was afforded
2292 the right of appeal.

2293 In conclusion, we look forward to working with this
2294 committee, the Congress, State and federal regulators to
2295 continue to expand access to affordable health insurance
2296 coverage in the individual market. Thank you.

2297 [The prepared statement of Mr. Hamm follows:]

2298 ***** INSERT 5 *****

|

2299 Mr. {Stupak.} Thank you.

2300 Mr. Sassi, your opening statement, please.

|
2301 ^TESTIMONY OF BRIAN SASSI

2302 } Mr. {Sassi.} Thank you, Chairman Stupak, Ranking Member
2303 Walden and members of the committee for inviting me to
2304 testify before you today. I am Brian Sassi. I am the
2305 president and CEO of the consumer division of WellPoint.

2306 We take contract rescissions very seriously because we
2307 understand the impact these decisions can have on individuals
2308 and families. We have put in place a thorough process with
2309 multiple steps to ensure that we are as fair and as accurate
2310 as we can be in making these difficult decisions. I want to
2311 emphasize that rescission is about stopping fraud and
2312 material misrepresentation that contribute to the spiraling
2313 health care costs. By some estimates, health care fraud in
2314 the United States exceeds \$100 billion, an amount large
2315 amount to pay for covering nearly half the 47 million
2316 uninsured. Rescission is a tool employed by WellPoint and
2317 other health insurers to protect the vast majority of
2318 policyholders who provide accurate and complete information
2319 from subsidizing the cost of those who do not. The bottom
2320 line is that rescission is about combating cost driven by
2321 these issues. If we fail to address fraud and material
2322 misrepresentation, the cost of coverage would increase,

2323 making coverage less affordable for existing and future
2324 individual policyholders.

2325 I would like to put this issue in context. While most
2326 people who are under the age of 65 obtain health insurance
2327 through their employers, some 15 million Americans purchase
2328 coverage in the voluntary individual market. In a market
2329 where individuals can choose to purchase insurance at any
2330 time, health insurers must medically underwrite applicants
2331 for current health risk. If an individual buys health
2332 coverage only when he or she needs health care services, the
2333 system cannot be sustained. While we understand and
2334 appreciate that this is a critical personal issue, individual
2335 market rescission impacts an extremely small share of the
2336 individual market membership. In our experience, we believe
2337 that more than 99 percent of all applicants for individual
2338 coverage provide accurate and complete information. In fact,
2339 as a percentage of new individual market enrollment during
2340 2008, we rescinded only one tenth of 1 percent of individual
2341 policies that year.

2342 The issue of rescission in health insurance surfaced in
2343 the media in 2006 and 2007, generating the public concern
2344 that we are here talking about today. Our main point today
2345 is the same as it was then: a voluntary market for health
2346 insurance requires that we protect our members from costs

2347 associated with fraud and material misrepresentations.

2348 Otherwise the market cannot be sustained.

2349 In response to the public concern over the practice of
2350 rescissions, in 2006 WellPoint undertook a thorough review of
2351 our policies and procedures. Following that review,
2352 WellPoint was the first insurer to announce the establishment
2353 of a variety of robust consumer protections that ensure
2354 rescissions are handled as accurately and as appropriately as
2355 possible. These protections include, one, creating an
2356 application review committee which is staffed by a physician
2357 that makes rescission decisions; two, establishing a single
2358 point of contact for members undergoing a rescission
2359 investigation; and three, establishing an appeal process for
2360 applicants who disagree with our original determination which
2361 includes a review by an application review committee not
2362 involved in the original decision. And then in 2008,
2363 WellPoint was the first in the industry to offer a binding,
2364 external, independent third-party review process for
2365 rescissions.

2366 We have put all these protections in place with multiple
2367 steps because we cover millions of Americans and want to be
2368 as fair and as accurate as we can be. Some have asserted
2369 that health insurers provide a systematic reward for
2370 employees regarding rescissions. This is absolutely not the

2371 case at WellPoint. I want to assure the committee that there
2372 is no WellPoint policy to either factor in the number of
2373 rescissions or the dollar amount of unpaid claims in the
2374 evaluation of employee performance or in calculating
2375 employees' salary or bonuses.

2376 In response to policymaker interest in enacting consumer
2377 protections related to rescission, WellPoint is proposing a
2378 set of rescission regulations with new consumer protections,
2379 and I have outlined these in my written testimony to the
2380 subcommittee. In addition, the health insurance industry has
2381 proposed a set of comprehensive and interrelated forms to the
2382 individual health insurance market as a whole. The
2383 centerpiece of this proposal is the elimination of medical
2384 underwriting combined with an effective and enforceable
2385 personal coverage requirement. In other words, insurers sell
2386 to applicants regardless of preexisting conditions as long as
2387 everyone enters the risk pool by purchasing and maintaining
2388 coverage. This would render the practice of rescissions
2389 unnecessary. Our proposals are examples of how we are
2390 working to find common ground on these issues so that we can
2391 make qualify, affordable health care available to all
2392 Americans.

2393 Thank you for the opportunity to discuss this issue and
2394 our proposals with you. I look forward to your questions.

2395 [The prepared statement of Brian Sassi follows:]

2396 ***** INSERT 6 *****

|

2397 Mr. {Stupak.} Thank you.

2398 Ms. Pollitz, your opening statement, please.

|
2399 ^TESTIMONY OF KAREN POLLITZ

2400 } Ms. {Pollitz.} Thank you, Mr. Chairman, members of the
2401 committee. I am Karen Pollitz and I study private health
2402 insurance and its regulation at Georgetown University. Thank
2403 you for holding this hearing today. Health insurance
2404 rescission is a serious issue of utmost important. In
2405 addition to the devastation that it visits on people, the
2406 problems explored today can teach us lessons that will be
2407 important for health care reform.

2408 The individual market is a difficult one, as we all
2409 know, and because it is small and voluntary and vulnerable to
2410 adverse selection, there has been a lot of resistance to
2411 enacting a lot of incremental reforms to govern practices in
2412 this marketplace. However, with the enactment of HIPAA in
2413 1996, the Congress did act to apply one important rule
2414 broadly to all health insurance including individual health
2415 insurance, and that is the rule of guaranteed renewability.
2416 Prior to HIPAA, individuals and small employers who brought
2417 health insurance and then made claims would sometimes have
2418 their coverage cancelled and HIPAA sought to fix that by
2419 requiring, and I quote ``except as provided in this section,
2420 a health insurance issuer that provides individual health

2421 insurance coverage to an individual shall renew or continue
2422 in force such coverage at the option of the individual. Only
2423 narrow exceptions to guaranteed renewability are permitted
2424 and with respect to policyholders' behavior, the policy can
2425 be renewed or discontinued only if the individual moves out
2426 of the service area, fails to pay their premium or commits
2427 fraud.''

2428 Congress relies on States to adopt and enforce HIPAA
2429 protections and the federal government is supposed to
2430 directly enforce when States do not. As States implemented
2431 HIPAA, they adopted the guaranteed renewability rule but
2432 other conflicting provisions in State law remained unchanged.
2433 In particular, laws governing so-called contestability
2434 periods continue to permit insurers to engage in post-claims
2435 underwriting and to rescind policies or deny claims based on
2436 reasons other than fraud and failure to pay premiums. State
2437 laws create a window, usually two years, when claims made
2438 under a policy can be investigated to determine whether they
2439 may be for a preexisting condition. After the period of
2440 incontestability, a policy can be rescinded or a claim denied
2441 only on the basis of fraud, but during the window, if a claim
2442 is submitted by a new policyholder, the original application
2443 for coverage is reinvestigated, and if any, even
2444 unintentional, material misstatement or omission is

2445 discovered, consumers may lose their health insurance. That
2446 conflicts with HIPAA.

2447 Now, clearly, when it comes to post-claims underwriting,
2448 protection against fraud is important but there is evidence
2449 that some insurance companies are not nearly as careful as
2450 they should be in their initial medical underwriting and rely
2451 instead on post-claims underwriting to catch their mistakes
2452 later. Applications for coverage may ask broad, vague or
2453 confusing questions, use technical terms and make it very
2454 difficult for consumers to answer accurately and completely,
2455 or other follow-up that should occur in the initial
2456 underwriting may not. For example, if a 62-year-old submits
2457 an application indicating absolutely no health problems or
2458 health history that application may be considered and
2459 coverage issued without any further investigation at the time
2460 of application. Market competition and profitability create
2461 pressures on medical underwriters to do their jobs more
2462 quickly and cheaply. However, if medical underwriting is
2463 allowed in health insurance, it has to be completed upfront
2464 before coverage is issued. The recent subprime mortgage
2465 scandals where banks issued mortgages without adequate
2466 screening of consumers' financial status offers an analogy.
2467 When insurers issue medical underwritten coverage without
2468 carefully screening an applicant's health status and rely on

2469 post-claims investigations to avoid incurring a loss,
2470 consumers are vulnerable. How extensive is this problem? It
2471 is hard to say. The industry has offered its own estimates
2472 but official data are lacking, and that is troubling. The
2473 federal government has not kept track of this issue. At a
2474 hearing of the Government Oversight Committee last year, a
2475 witness for the Bush Administration testified that she had
2476 not acted on press reports of inappropriate rescissions or
2477 even looked into them. She did not appear to be aware of
2478 conflicts in current State law and she testified she had only
2479 four people on her staff who worked part time on HIPAA
2480 private insurance issues.

2481 In conclusion, Mr. Chairman, this investigation into
2482 health insurance rescission has trained a spotlight on an
2483 important question. If the Congress enacts a law or an
2484 entire health care reform proposal, how will you know if that
2485 law is being followed? It is fundamentally important that
2486 along with federal protections for health insurance, you also
2487 enact reporting requirements on health insurers and health
2488 plans so that regulators can have access to complete and
2489 timely data about how the market is working in order to
2490 monitor compliance with the law. Congresswoman DeLauro has
2491 introduced a bill to create a federal office of health
2492 insurance oversight that establishes such reporting

2493 requirements on insurers and that appropriates resources so
2494 that the federal government and State insurance departments
2495 together can carry out those responsibilities. I hope the
2496 Congress will follow her leadership and make adequate
2497 oversight and enforcement resources part of health care
2498 reform.

2499 [The prepared statement of Karen Pollitz follows:]

2500 ***** INSERT 7 *****

|
2501 Mr. {Stupak.} Thank you, and thank you all for your
2502 testimony. We will go to questions.

2503 Mr. Sassi, let me ask you this because you threw a bunch
2504 of statistics at us, but I was just looking at the State of
2505 California alone, and it seems to me if I remember correctly,
2506 in July of 2008 Anthem Blue Cross, which is a subsidiary of
2507 WellPoint, paid a \$10,000 fine and had to reinstate 1,770
2508 rescinded policies, and in February of 2009 once again
2509 California Anthem Blue Cross, again, one of your
2510 subsidiaries, had to pay a \$15 million fine and reinstate
2511 over 2,300 rescinded policies, and then another settlement,
2512 \$5 million and another 450. So it seems like in the last
2513 year you have had to reverse 4,500 rescissions and pay a fine
2514 of \$30 million just in one State. Is that true?

2515 Mr. {Sassi.} I don't believe the numbers are exactly
2516 accurate, but the premise is accurate. The issue of
2517 rescission first surfaced in the media, particularly in
2518 California, I believe, in 2006 and 2007, and shortly
2519 thereafter one of our regulators initiated an audit, issued
2520 audit findings. We disputed the majority of those findings,
2521 and our response is appended to that audit report. The
2522 regulator subsequently did change--

2523 Mr. {Stupak.} Well, according to California Department

2524 of Management and Health, in July of 2008, last year, July
2525 17, 2008, you entered into an agreement with California to--

2526 Mr. {Sassi.} Yes. We--

2527 Mr. {Stupak.} --over 1,700 people and, what, a \$10
2528 million fine, and in February 2009, California Department of
2529 Insurance also put out a release indicating that you paid a
2530 \$15 million fine and had to reinstate 2,300 people. So
2531 according to my math, that is just over 4,000 and \$25 million
2532 in fines, right?

2533 Mr. {Sassi.} Yeah, I think there wasn't a \$15 million
2534 fine to the Department of Insurance. Irregardless of that,
2535 you know, companies enter into settlement--

2536 Mr. {Stupak.} Let me ask you this--

2537 Mr. {Sassi.} --agreements for a variety of reasons.

2538 Mr. {Stupak.} Let me ask you this, and I will ask all
2539 three of you. Why don't you just vet these policies before
2540 you ever collect the premium? Why don't you just go through
2541 these policies and make sure there is no problems with it
2542 before you insure the people? Only one State requires you to
2543 do that, and that is Connecticut, right?

2544 Mr. {Sassi.} Chairman, we do investigate the
2545 applicants. We have very rigorous underwriting requirements.
2546 As we review an applicant's application, we rely on the
2547 applicants to be truthful in completing, and our experience

2548 has shown that over 99 percent of applicants are truthful in
2549 completing their applications.

2550 Mr. {Stupak.} So when do you do the--

2551 Mr. {Sassi.} We rely on that.

2552 Mr. {Stupak.} When do you do the investigation then?

2553 Why are we getting this post-underwriting going on? Why does
2554 that occur?

2555 Mr. {Sassi.} Well, I would contend that we don't
2556 participate in post-claim underwriting.

2557 Mr. {Stupak.} Really? Well, let me ask you this--

2558 Mr. {Sassi.} If there is a situation where either a
2559 pharmacy claim was received or a pre-authorization for a
2560 hospital stay is received or a claim that is received that
2561 would hit either a specific diagnosis that could lead to
2562 potential fraud, that would trigger an underwriter to
2563 investigate.

2564 Mr. {Stupak.} Well, let me ask you this. In the book
2565 right there, and I believe it is tab number 11, that is our
2566 document. You gave us--WellPoint provided the committee with
2567 a list of conditions that automatically lead to an
2568 investigation post underwriting, okay? And for WellPoint,
2569 the list of conditions that trigger rescission investigation
2570 includes diseases ranging from heart disease and high blood
2571 pressure to diabetes and even pregnancy. So what do these

2572 conditions have in common that would cause you to investigate
2573 patients with these conditions for a possible rescission?
2574 You have 1,400 different conditions which would trigger,
2575 according to your documents, which will trigger an
2576 investigation.

2577 Mr. {Sassi.} Chairman, an investigation does not mean
2578 that a rescission actually occurs. For example, in 2008,
2579 there were over 16,000 investigations triggered. Ninety-two
2580 percent of those were dismissed and no action was taken.

2581 Mr. {Stupak.} Right, but why do you have 1,400
2582 different conditions which trigger an investigation? What is
2583 the common theme amongst these 1,400 that would trigger an
2584 investigation?

2585 Mr. {Sassi.} I would say there is no common theme other
2586 than these are conditions that had the applicant disclosed
2587 their knowledge of a condition at the time of initial
2588 underwriting, we may have taken a different underwriting
2589 action, and so that is what the investigation really is
2590 about, is to determine did the applicant have the condition,
2591 did they know about the condition--

2592 Mr. {Stupak.} Well, I thought you said you did pre-
2593 screening before, you screened them before.

2594 Mr. {Sassi.} We do, but in many of these--

2595 Mr. {Stupak.} Why would you have to go back? If you

2596 screened them before and there wasn't a problem, then why
2597 would you have a list of 1,400 different conditions that
2598 trigger an investigation? If you pre-screen, if your pre-
2599 screening is good, you wouldn't need a list of 1,400, would
2600 you?

2601 Mr. {Sassi.} But unfortunately, there are those among
2602 us that are not truthful in completing their application.

2603 Mr. {Stupak.} So in the 1,400 different areas they lie?
2604 The applicants lie? Or is it a cost issue? These are 1,400
2605 expensive areas, aren't they?

2606 Mr. {Sassi.} Rescission is not about cost. A pharmacy
2607 claim that is \$20 could trigger something.

2608 Mr. {Stupak.} Sure, if it is for a certain condition,
2609 right? Heart disease?

2610 Mr. {Sassi.} No, not necessarily.

2611 Mr. {Stupak.} All right. My time is up. Mr. Walden.

2612 Mr. {Walden.} Thank you, Mr. Chairman.

2613 I would just like to ask each of the companies present,
2614 is it your company's policy to deny coverage to any applicant
2615 that discloses that he or she has had had previous policies
2616 rescinded? You heard some of the witnesses today say look,
2617 once I get rescinded, no company is going to write me again
2618 on an individual policy. Is that correct, Mr. Sassi?

2619 Mr. {Sassi.} I am personally unaware of that policy.

2620 Mr. {Walden.} Mr. Collins?

2621 Mr. {Collins.} Sir, we do have that question on our
2622 application but I am not aware as to whether or not what the
2623 underwriting guidelines are so we ask if you have been
2624 rescinded or declined by another carrier.

2625 Mr. {Walden.} But you don't know what happens with that
2626 information?

2627 Mr. {Collins.} No, sir. I imagine it triggers an
2628 investigation but I don't know if there is an underwriting
2629 policy that is directly linked to that that is a black and
2630 white policy.

2631 Mr. {Walden.} Mr. Hamm?

2632 Mr. {Hamm.} Yes, we would not provide coverage in that
2633 situation.

2634 Mr. {Walden.} So do you ever look to see if a
2635 rescission--the circumstances around another company's
2636 rescinding of a policy before you just--I mean, if they check
2637 the box and say yes, I was rescinded in the past--

2638 Mr. {Hamm.} Our underwriting guidelines are that we
2639 would not issue that policy.

2640 Mr. {Walden.} Wow. Mr. Collins, is that your
2641 underwriting? Can somebody tell you if that is your
2642 underwriting policy too?

2643 Mr. {Collins.} I don't know, sir, but I would be happy

2644 to get back to you with an answer on that.

2645 Mr. {Walden.} And Mr. Sassi, is that your company's
2646 policy?

2647 Mr. {Sassi.} Again, I am not aware of the policy. I
2648 would be happy to research it and provide a response for the
2649 record.

2650 Mr. {Walden.} You obviously sat here and heard the
2651 testimony of the prior witnesses, and some of the information
2652 we have seen indicates there are mistakes made in rescinding
2653 policies, at least from our standpoint, and I think you have
2654 settled some cases along those lines. After hearing that
2655 testimony, do you think it should be your company's policy to
2656 just not issue a private insurance policy to somebody who had
2657 been rescinded by another company? Should that be the policy
2658 of your company?

2659 Mr. {Sassi.} Well, as I stated for the record, I am not
2660 aware that that is a company policy.

2661 Mr. {Walden.} And I stipulate that. Should it be?

2662 Mr. {Sassi.} I think that is a factor that should be
2663 considered.

2664 Mr. {Walden.} But I am hearing, at least from Mr. Hamm,
2665 that it is your company's policy that if they were rescinded
2666 by another company, it is a no go coming to your company.
2667 That is correct, right? I heard you correctly. Mr. Collins,

2668 once you find out whether it is or not, do you think it ought
2669 to be?

2670 Mr. {Collins.} Well, sir, I think we should investigate
2671 the circumstances.

2672 Mr. {Walden.} I do too. I mean, if somebody did lie on
2673 a prior form, that is one thing. If they are truthful on
2674 your form, though, should that--because they made a mistake
2675 in the past, should they never be forgiven? They never have
2676 a shot at health insurance again? I mean, let us take Ms.
2677 Horton's case. You heard her situation. You heard her fear.
2678 So she will never get offered coverage again. Is that right?

2679 Mr. {Sassi.} I agree, it should be something that
2680 should be investigated and considered.

2681 Mr. {Walden.} Most of your company policies approve a
2682 decision to rescind if an applicant made any material
2683 misrepresentations or omissions in the application. I
2684 understand that. How does your company ensure the applicant
2685 was aware of the condition or notation found in his or her
2686 medical records? We have had some testimony along those
2687 lines and we have seen some in some of the files where they
2688 say, you know, my doctor never told me that, and we have
2689 letters from physicians who say that is correct, I make notes
2690 all the time in the medical files, I didn't tell the patient
2691 that. Where is the balance here, Mr. Hamm?

2692 Mr. {Hamm.} We have a very fair and thorough process of
2693 determining if there was a material misrepresentation. The
2694 process involves several layers of review and a review panel
2695 including a medical doctor, and in that process we gather all
2696 the available information with respect to a person's use of
2697 medical services including medical records as well as the
2698 information on their application and we will do detailed
2699 research and look at each situation based on the facts, make
2700 a determination whether there was a material
2701 misrepresentation when the policy was underwritten.

2702 Mr. {Walden.} So do you look at the case files? Do you
2703 look at the medical records? Do you communicate directly
2704 with the physician?

2705 Mr. {Hamm.} We will communicate when it is necessary.

2706 Mr. {Walden.} Well, but to determine the material
2707 misrepresentation. I mean, what happens in a case where the
2708 physician says I never told the patient that?

2709 Mr. {Hamm.} It is difficult to speak of a hypothetical
2710 situation, it depends on the facts of each time, but I can
2711 tell you that we would not rescind a policy if the applicant
2712 was not aware of the condition.

2713 Mr. {Walden.} Mr. Collins?

2714 Mr. {Collins.} Sir, we afford the customer the right to
2715 appeal and we accept statements and information from the

2716 customer and their physicians with regards to the
2717 circumstances of the rescission, and we would take that into
2718 account. I think that fair-minded people would say that if
2719 an individual did not know of a condition that was noted in
2720 the medical record, then that would not be grounds for a
2721 rescission normally.

2722 Mr. {Walden.} Mr. Sassi?

2723 Mr. {Sassi.} We also have a thorough process when we
2724 initiate a rescission investigation. We do reach out to the
2725 member and share with them the information that we do have
2726 and ask them to provide us with any comments or other
2727 relevant information, and all of that information is used in
2728 making a recommendation, and all that information is provided
2729 to our application review committee that actually makes the
2730 rescission decision. We would not rescind a member that we
2731 could determine did not know of their condition.

2732 Mr. {Walden.} And Mr. Hamm's company I know a week and
2733 a half or 2 weeks ago started this third-party independent
2734 review opportunity, correct?

2735 Mr. {Hamm.} That is correct. We recently implemented
2736 that.

2737 Mr. {Walden.} And I commend you for that. I think that
2738 is a good move.

2739 Mr. Collins and Mr. Sassi, do you have a similar sort of

2740 independent review panel that an insured could go to and make
2741 their case?

2742 Mr. {Collins.} No, sir, we do not have an independent
2743 review panel.

2744 Mr. {Walden.} Do you plan to go that route? Is that
2745 something you are thinking about?

2746 Mr. {Collins.} It is under consideration but we haven't
2747 made that decision, sir.

2748 Mr. {Walden.} Mr. Sassi?

2749 Mr. {Sassi.} Congressman, we were the first insurer to
2750 implement an independent third-party review and we
2751 implemented that in July of 2008.

2752 Mr. {Walden.} Okay, so last July. All right. My time
2753 is expired. Thank you, Mr. Chairman.

2754 Mr. {Stupak.} Well, thanks. On that third-party
2755 review, that was because California made you do it, right?

2756 Mr. {Sassi.} No, absolutely not. It was not a
2757 requirement.

2758 Mr. {Stupak.} Because in your opening statement, you
2759 said you had announced robust consumer protections, so I want
2760 to know what is the difference between announcing
2761 implementation, I wanted to see if you had implemented those
2762 robust consumer protections. Have you implemented those
2763 robust consumer protections you mentioned in your opening

2764 statement?

2765 Mr. {Sassi.} Yes, absolutely. In my written testimony
2766 to the subcommittee, we have outlined ten recommendations.
2767 We have implemented eight of those ten recommendations.

2768 Mr. {Stupak.} So eight of the ten are there. Okay.

2769 Mr. Hamm, you said you would not reject or rescind a
2770 contact for a policyholder if the policyholder had no
2771 knowledge of it. Well, that is the Raddatz case. That was
2772 our last case. That was Otto Raddatz. He didn't have any
2773 idea he had gallstones and an aneurysm, and your company
2774 rejected him.

2775 Mr. {Hamm.} Mr. Chairman, I would really like to
2776 comment on that case, but due to privacy concerns I am not
2777 able to, but I can tell you that in situations when we
2778 uncover that the individual was not aware of the condition,
2779 we would not go forward with the rescission.

2780 Mr. {Stupak.} But do all your clients or policyholders
2781 have to get a hold of the attorney general of their State to
2782 get it done? I mean, that is what Raddatz had to do and you
2783 denied him twice.

2784 Mr. {Hamm.} We have a very detailed appeals process.
2785 In fact, after the three levels review and the entire
2786 committee voting for a rescission, we notify the customer.
2787 We give them 15 days. We delay the rescission, giving them

2788 an opportunity to respond back to us with additional
2789 information, and when it does come in we have a different
2790 underwriter look at the appeal and they may appeal as many
2791 times as they would like.

2792 Mr. {Stupak.} Raddatz only had 2 or 3 weeks to get his
2793 stem cell--

2794 Mr. {Hamm.} We go through the process as fast as
2795 possible.

2796 Mr. {Stupak.} And I apologize again, Mr. Deal. I
2797 didn't see you there. You have to change the color of your
2798 suit. I will go to you for questions, please.

2799 Mr. {Deal.} I am going to have to remind the chairman,
2800 Georgia was the fourth state admitted to this union when
2801 Michigan was still Indian territory. We don't need to be
2802 overlooked. Thank you, though. We didn't win that argument,
2803 though.

2804 Normally, we are confronted here with the question of,
2805 do we need new federal legislation, and the gentlemen from
2806 the insurance industry have all uniformly told us that if we
2807 will pass a federal mandate of having everybody mandatorily
2808 in the insurance pool, that all of these problems will go
2809 away. What I find interesting, Ms. Pollitz, is that you
2810 brought up a question that nobody has seemed to answer. In
2811 your testimony, you point out that in 1996 the HIPAA

2812 provisions required that in individual health insurance
2813 policies, that not only is it a guarantee of renewability,
2814 but you say continuation in force. Now, do you interpret
2815 that phrase to mean the non-cancellability that we have been
2816 talking about here, and if so, if that is what the law that
2817 has been in place since 1996 means, why are we having this
2818 discussion?

2819 Ms. {Pollitz.} Well, I am not sure if I can answer that
2820 second question, but I think I should say I am not an
2821 attorney, I just read English, and the words say continue in
2822 force, and the only exceptions among the ones we are talking
2823 about today are fraud, and that is inconsistent with what
2824 these other kind of post-claims underwriting guidelines or
2825 provisions that are in State law provide for, which say that
2826 fraud is the only defense or the only reason for canceling
2827 after a 2-year period so that essentially new policyholders
2828 can't ever quite be sure if they are really covered. The
2829 insurance industry kind of gets a do-over and gets to look
2830 again, and any material omission, whether--material just
2831 means it matters. It doesn't mean that it was fraudulent.
2832 It doesn't mean--it just means that it matters to the
2833 insurance industry. That can become the basis for
2834 challenging coverage. Sometimes coverage is rescinded,
2835 sometimes it is terminated going forward. Some insurers

2836 won't rescind a policy because they don't want to get an
2837 argument with doctors and hospitals who may already have been
2838 paid to try to get that money back and so they will just
2839 cancel the policy going forward. But with respect to
2840 cancellation and rescission, I think the Congress spoke on
2841 this in 1996--

2842 Mr. {Deal.} And none of the five exceptions to that fit
2843 the discussions here unless it is elevated to the level of
2844 fraud.

2845 Ms. {Pollitz.} That is correct.

2846 Mr. {Deal.} And I would ask the entire panel, are you
2847 aware of any court interpretation or any question that has
2848 ever been raised as to the applicability of this section
2849 2742(a) of the Public Health Service Act as it relates to the
2850 issue we are talking about here today as to whether or not it
2851 in fact does preclude cancellation for whatever we might call
2852 it, whether we call it post-review underwriting?

2853 Mr. {Hamm.} Congressman, may I speak to that?

2854 Mr. {Deal.} Yes.

2855 Mr. {Hamm.} This is a legal issue but I don't believe
2856 that rescission is considered a non-renewal.

2857 Mr. {Deal.} Well, but it doesn't just stop when it says
2858 ``shall renew.'' It says ``or continue in force.'' I guess
2859 if you read that phrase ``or continue in force'' to mean the

2860 same as renew, then it would actually be a redundant phrase,
2861 which the law generally does not favor redundancy. Has this
2862 ever been challenged? Does anybody know if it has ever been
2863 raised before?

2864 Mr. {Collins.} I have no knowledge, sir.

2865 Mr. {Deal.} Well, let me go then to the second part of
2866 my question, and that is, we then go to the States having
2867 their statutory periods, generally 2 years as has been
2868 pointed out, for review, but Mr. Hamm, you pointed out that
2869 under your policies, I believe you said that you give the
2870 potential customer 10 days to review the application and to
2871 notify the company of any errors in 10 days to just say we
2872 don't want to have the policy in effect. Are there any
2873 States that currently have in place a period of time for
2874 insurance companies to mandatorily review for these kinds of
2875 misstatements, in other words, review the medical records
2876 within a given time other than the 2-year period? Do any
2877 States have a shorter time frame?

2878 Mr. {Hamm.} I am not aware of that. We comply with all
2879 applicable State statues, and I think it is almost all States
2880 we have a 10-day free look where we send the customer a copy
2881 of their application, remind me that they are attesting to
2882 the accuracy of it, ask them if they have any questions or
2883 changes, and then as part of the policy, in the welcome

2884 letter we reinforce the importance that we receive all the
2885 disclosed information appropriately.

2886 Mr. {Deal.} If, though, something was going to be
2887 rejected based on information that was in an application or
2888 information in the medical records that we for whatever
2889 reason have not disclosed, it seems to me that 2 years is a
2890 rather lengthy period of time, and in practical application,
2891 it seems that even in that 2-year period it takes some other
2892 triggering mechanism to institute the review, that there is
2893 no normally dictated review of the applications unless
2894 something triggers it or brings it to your attention. Should
2895 there be a time frame shorter than this 2-year period and
2896 should there be a review that takes place prior to a
2897 triggering act taking place?

2898 Mr. {Hamm.} Let me clarify that we do not post-claims
2899 underwrite. We ask information of every single applicant to
2900 the company, and 88 percent of the time we receive additional
2901 information from them and we ask them to fully disclose all
2902 their information. It is only when we are aware subsequently
2903 that there was some information that was omitted or
2904 inaccurate that we would investigate whether a rescission
2905 should be made.

2906 Mr. {Deal.} But that would be that triggering act and
2907 you wouldn't know about that unless something by way of a

2908 pharmaceutical being prescribed or an office visit in the
2909 doctor's office or a hospitalization.

2910 Mr. {Hamm.} That is correct.

2911 Mr. {Deal.} What I am asking is, just as you give the
2912 policyholder 10 days to review the application to figure out
2913 if it is correct, should there be a comparable, maybe longer,
2914 obviously I think longer, period of time in which the company
2915 without some triggering act should be required to review the
2916 applications and say hey, we think there is something wrong
2917 or ask for additional information rather than waiting until
2918 people get in a posture where they probably are uninsurable
2919 at the time the issue is raised?

2920 Mr. {Hamm.} It is something to discuss and give some
2921 thought to.

2922 Mr. {Deal.} Thank you, Mr. Chairman.

2923 Mr. {Stupak.} Mr. Burgess for questions.

2924 Mr. {Burgess.} Thank you, Mr. Chairman, and that last
2925 point of Mr. Deal's I think is an excellent one and likely
2926 would have eliminated the problem for at least one of the
2927 three witness that we had in front of this morning.

2928 Let me just ask Mr. Hamm, Mr. Collins, Mr. Sassi, you
2929 were here and you heard the testimony this morning of the
2930 three individuals who testified. What do you think after
2931 hearing that? Is that something that--and again, I am coming

2932 at this from the perspective of someone who supports the
2933 individual insurance market. I was a customer of the
2934 individual insurance market at one time. I may be again in
2935 the future. I recognize the value that you bring, and I want
2936 you to be able to continue to do the type of business that
2937 you do but you heard the opening comments of the chairman of
2938 the subcommittee this morning. There is a move afoot to do
2939 things in a way that would be very difficult for you to
2940 business in the future and I for one would not like to see
2941 that happen, but tell me what your impressions are after
2942 hearing the testimony that you heard this morning.

2943 Mr. {Hamm.} I would be glad to respond to that,
2944 Congressman, and I have to say, I really felt bad. You know,
2945 I have a lot of empathy for the people that are impacted, and
2946 I know in my own life I have dealt with the cancer and I just
2947 have a lot of empathy and concern for the people and it is my
2948 hope that there will be changes made, that this will no
2949 longer be necessary. It is just that today when we have a
2950 voluntary system of insurance where people choose, we have to
2951 collect information up front to underwrite, and if we didn't
2952 have that process, then people would wait until they had a
2953 health condition before applying for coverage and the rates
2954 would be much, much, much higher than they are today. I
2955 chaired a group that put forth reform proposals, and in our

2956 proposal we suggest that the country should move toward a
2957 guarantee issue environment with no preexisting conditions
2958 being excluded as long as everyone is required to
2959 participate. If everyone participates, then there is no need
2960 for rescission and the price would not increase for those
2961 currently covered.

2962 Mr. {Burgess.} You brought that up. What do you do
2963 with the segment of society that is just not going to
2964 participate? I mean, there will be--that segment of society
2965 will exist whether it is the individuals who are in this
2966 country without the benefit of a Social Security number,
2967 whatever that number is, 10 million, 12 million, people who
2968 just don't comply. We live in a free country and they don't
2969 like mandates. Look at the people who don't comply with the
2970 mandate of the IRS right now knowing the penalties that are
2971 out there waiting for them if they get caught, so people are
2972 perfectly willing to fly beneath the radar. What then? Will
2973 these people be rated on whether or not they had a
2974 preexisting condition or are they just absorbed then by the
2975 larger taxpaying public who does play by the rules and pays
2976 their bills on time?

2977 Mr. {Hamm.} We believe that the requirement to purchase
2978 insurance should be enforced. We believe that those who
2979 don't have the means should be subsidized, and we would look

2980 forward to working with Congress to find a solution that is
2981 workable for all Americans, but I believe every American must
2982 have access to high-quality health care. We have to work
2983 together to find out how we can make that happen.

2984 Mr. {Burgess.} Well, you and I will fundamentally
2985 disagree on that point, and I think the approach that was
2986 taken by Congress in the development of the Part D program in
2987 Medicare for all the faults initially rolling it out,
2988 creating problems that people actually want that are actually
2989 useful for people will be a better way of going about that.
2990 The coverage rates for prescription drugs amongst seniors now
2991 is in excess of 90 percent with a very high satisfaction
2992 rate, and clearly in my mind, at least, that is a better
2993 strategy than simply layering another mandate on the American
2994 people or the employers of America. But I don't disagree
2995 with you that something needs to happen, and let me just take
2996 this to a different level, and again, I want to pose this
2997 question to all three and I really would like an answer from
2998 all three on this.

2999 If there were a system of universal coverage without
3000 government intervention in the marketplace, is there a better
3001 way to accomplish our goal of universal coverage without that
3002 excess market manipulation by the government? Insurance
3003 companies have used adverse selection methods to deny or

3004 cancel policies in the individual market. Apparently it
3005 happens also in other markets. To the extent that this has
3006 been allowed in law, the business interests almost dictate
3007 those actions, yet some of us have argued that if we let the
3008 market work, you can make an innovative product for all. So
3009 here is my question. Will you today publicly and clearly
3010 commit right now that regardless of what happens in
3011 Washington, whatever decision that we reach on health reform,
3012 that you will design a product for all populations regardless
3013 of claims history but also economic status? And I would like
3014 an answer to those questions individually, a product for all
3015 populations regardless of claims history and all populations
3016 regardless of economic status. Mr. Hamm, why don't you go
3017 first and then we will just go down the row.

3018 Mr. {Hamm.} I am having a little difficulty following
3019 your question, sir. If I may understand specifically what
3020 you are asking?

3021 Mr. {Burgess.} Regardless of what we do, whether we do
3022 an individual or business mandate, employer mandate, maybe we
3023 don't do a mandate at all, but you have it within your power
3024 to design a product so that all populations regardless of
3025 claims history could be covered. Would you be willing to do
3026 that?

3027 Mr. {Hamm.} In the current system, that would not be

3028 feasible. We need to have an environment where all Americans
3029 are required to participate before we could give those
3030 assurances.

3031 Mr. {Burgess.} So you would not be willing to alter
3032 business practices if there were a way to do that to provide
3033 coverage for a greater segment of the population, even with a
3034 claims history?

3035 Mr. {Hamm.} If the reforms proposed by AHIP are
3036 adopted, then we would be very glad to participate in the
3037 system, but it is necessary that all participate. When it is
3038 a system where people choose, we need to have the process of
3039 assessing risk at the time of the application.

3040 Mr. {Burgess.} With all respect, the reforms proposed
3041 by AHIP are not going to happen. You are going to get a plan
3042 as your chairman outlined here this morning.

3043 Mr. Collins, can I get you to answer briefly? Would you
3044 be willing to design such a product?

3045 Mr. {Stupak.} Briefly. We are going to have votes
3046 here.

3047 Mr. {Collins.} Sir, I would respectfully have to agree
3048 with Mr. Hamm that a guarantee issue product that would fit
3049 all people at affordable prices is economically practically
3050 impossible. What I would suggest is that HIPAA also creates
3051 alternative coverage mechanisms for each and every State, so

3052 each State is supposed to have a high-risk pool or an
3053 alternative coverage mechanism, and these high-risk pools
3054 have been woefully underfunded so one of the things that
3055 could be done right now today is to increase the amount of
3056 funding going into those high-risk pools so that people that
3057 have serious health issues and are otherwise uninsurable in
3058 the individual market have a place to go that is affordable
3059 and affords them the care that they need.

3060 Mr. {Burgess.} And on the issue of high-risk pools, I
3061 think the private sector is going to be required to make a
3062 contribution to that as well and that you all in the private
3063 sector, whether it be group insurance or individual market,
3064 there must be a product that is available to everyone
3065 regardless of their claims history. Yes, they may require a
3066 federal subsidiary. Yes, they may require a State
3067 subsidiary, and yes, the private sector may have to bring
3068 something to the table as well.

3069 Mr. Sassi, let me ask you--

3070 Mr. {Stupak.} All right, that is it. Last question,
3071 Mr. Burgess. You are just going on.

3072 Mr. {Burgess.} Let me ask you then just to answer the
3073 question--

3074 Mr. {Stupak.} Last one.

3075 Mr. {Burgess.} --I posed to the others. Regardless of

3076 the claims history and the population, would you be willing
3077 to make a product available?

3078 Mr. {Sassi.} I have to agree with my colleagues here
3079 that in the current voluntary individual market, we could not
3080 guarantee issue policies where people could jump in and out
3081 of the insurance market. We have had experience of States
3082 that have implemented guarantee issue without an effective,
3083 enforceable personal coverage mandate, and unfortunately,
3084 that has resulted in significant cost increases that have to
3085 be borne by others in the individual market. So the answer
3086 would be no.

3087 Mr. {Burgess.} Mr. Chairman, you have been very
3088 generous with your time. Again, I would just stress that
3089 this is going to take creative thinking outside the box. I
3090 don't think you are going to get what you want in the AHIP
3091 proposal. You are going to get more something that looks
3092 like what the chairman outlined to you at the beginning, and
3093 I would urge you to think creatively about this problem
3094 because this is the difficulty that leads us to where we are
3095 here today, and I can't help you--

3096 Mr. {Stupak.} Okay, questions or speeches are over.

3097 Mr. {Burgess.} --if you are not willing to move on this
3098 issue, and thank you, Mr. Chairman. I will yield back.

3099 Mr. {Stupak.} We hope the chairman's, not my plan, but

3100 our side plan does work. We do hope that. I won't argue it
3101 with you now. That is for another hearing.

3102 Maybe we can get another round in. We are going to have
3103 votes here in a few minutes. Now, each of you provided to
3104 the committee information that relates to certain medical
3105 conditions that automatically trigger an investigation into
3106 possible grounds for rescission. Mr. Sassi, I left off with
3107 you. You had 1,400 different conditions that automatically
3108 trigger an investigation. Mr. Hamm, on behalf of Assurant,
3109 there are 2,000 conditions that trigger an investigation that
3110 you provided to the committee. These include breast cancer,
3111 ovarian cancer and brain cancer. Why does cancer trigger an
3112 investigation?

3113 Mr. {Hamm.} What triggers the investigation--

3114 Mr. {Stupak.} No, why does cancer trigger an
3115 investigation?

3116 Mr. {Hamm.} I will answer. What triggers the
3117 investigation are the types of medical conditions of a
3118 chronic nature where there is a high probability that the
3119 condition would have preexisted at the time of the
3120 application. It is not based on the cost of the claim. It
3121 is based on the medical condition. In fact, the people that
3122 make the rescission decision are not aware of the cost of the
3123 claim. It is all about--

3124 Mr. {Stupak.} If it is the medical condition, then
3125 before you sign them up, why don't you get all the medical
3126 records? Why don't you find it then? Why do you wait until
3127 there is a claim?

3128 Mr. {Hamm.} If we were to receive all the medical
3129 records at the time of application, that would delay the
3130 process significantly, delaying people's access to health
3131 care, and would add a tremendous amount of cost to the
3132 product. The vast majority of applicants provide all the
3133 information that is asked for at the time of application.

3134 Mr. {Stupak.} So it is a cost issue? It is too costly
3135 to get the medical records?

3136 Mr. {Hamm.} It would add to--yes, it would add to the
3137 premiums that our customers would pay by a significant
3138 amount.

3139 Mr. {Stupak.} So what does it cost, \$40 to get medical
3140 records?

3141 Mr. {Hamm.} I am not familiar with the cost but I would
3142 also delay the process.

3143 Mr. {Stupak.} But isn't it better to delay the process
3144 to make sure a person is insured as opposed to pulling them
3145 when they are going through cancer like Mr. Raddatz?

3146 Mr. {Hamm.} The vast majority of our customers provide
3147 the appropriate information.

3148 Mr. {Stupak.} So did Mr. Raddatz but you still denied
3149 him coverage, right?

3150 Mr. {Hamm.} I unfortunately cannot comment on that
3151 particular case.

3152 Mr. {Stupak.} Mr. Collins, in asking the same question
3153 of United, you insisted that you also use a computerized
3154 system to identify cases to automatically investigate for
3155 possible rescission but there is no one at your company who
3156 knew how the computer decides which files should be reviewed.
3157 So is it the case that United has put the decision of which
3158 patients will have their health care treatment interrupted by
3159 a rescission investigation in the hands of a computer that no
3160 one understands?

3161 Mr. {Collins.} No, sir, that is not true. I haven't
3162 really been privy to the discussions between my staff and
3163 your staff on this issue. We have been trying to come to an
3164 understanding about how to best provide the data in a format
3165 that is easily understandable, but let me just say--

3166 Mr. {Stupak.} Can you tell us what conditions the
3167 computer considers for a possible rescission investigation?

3168 Mr. {Collins.} No single factor is used in our process
3169 to trigger an investigation so we look at--the system looks
3170 as it is screening claims that come in at the effective date
3171 of the policy, the effective date of the procedure, the

3172 severity, the type of service and the diagnosis code. Those
3173 are all factors that go into the algorithm that pulls cases
3174 out for screening.

3175 Mr. {Stupak.} Well, the algorithm, no one from your
3176 company could tell us. Will you commit to us today to
3177 produce whatever witnesses or documents are necessary to
3178 explain your algorithm, your computer selection process?
3179 Could you do that? Will you commit to do that?

3180 Mr. {Collins.} Yes, sir. We are--

3181 Mr. {Stupak.} We are still trying to figure it out.

3182 Mr. {Collins.} We are trying to put it in a format that
3183 would be acceptable to the committee, sir.

3184 Mr. {Stupak.} Dr. Pollitz--Professor Pollitz, do you
3185 see a common thread here among the conditions? You have
3186 1,400 conditions, 2,000 conditions and a computer that it
3187 can't explain that does rescission. Why do you think they
3188 have all these rescission?

3189 Ms. {Pollitz.} I think the common thread is that if
3190 somebody makes a claim for anything serious in their first
3191 year, there is an opportunity to go back and review the
3192 entire transaction to see if it is going to be withdrawn. I
3193 think that is just the common transaction, and I think it is
3194 not consistent with your federal law, and whatever else you
3195 may do going forward--

3196 Mr. {Stupak.} But as to the HIPAA law, basically we
3197 leave it up to the States, and HIPAA has to be enforced by
3198 the federal government, CMS, right?

3199 Ms. {Pollitz.} That is correct, the ultimate
3200 enforcement.

3201 Mr. {Stupak.} So the value of the law only depends on
3202 the enforcement of the law?

3203 Ms. {Pollitz.} Yes, it does, and there is a fine of
3204 \$100 per day per affected individual for noncompliance with
3205 the law that can be levied.

3206 Mr. {Stupak.} Let me ask each of our CEOs this
3207 question, starting with you, Mr. Hamm. Would you commit
3208 today that your company will never rescind another policy
3209 unless there was intentional fraudulent misrepresentation in
3210 the application?

3211 Mr. {Hamm.} I would not commit to that.

3212 Mr. {Stupak.} How about you, Mr. Collins? Would you
3213 commit not to rescind any policy unless there is intentional
3214 fraudulent misrepresentation?

3215 Mr. {Collins.} No, sir. We follow the State laws and
3216 regulations and we would not stipulate to that. That is not
3217 consistent with each State's laws.

3218 Mr. {Stupak.} How about you, Mr. Sassi? Would you
3219 commit that your company will never rescind another policy

3220 unless it was intentional fraudulent misrepresentation?

3221 Mr. {Sassi.} No, I can't commit to that. The
3222 intentional standard is not the law of the land in the
3223 majority of States.

3224 Mr. {Stupak.} Well, do you think it is fair to rescind
3225 somebody for an innocent mistake?

3226 Mr. {Sassi.} Well, I think applying a knowing standard
3227 is a much more objective and--

3228 Mr. {Stupak.} Well, our first panel, none of them had
3229 any knowledge of it and they were all rescinded, right?

3230 Mr. {Sassi.} I am sorry?

3231 Mr. {Stupak.} Our first panel, none of them knowingly
3232 made a misrepresentation but they were all rescinded, their
3233 policies from Ms. Beaton all the way down to our witnesses
3234 there. They weren't material misrepresentations, right?

3235 Mr. {Sassi.} It is our policy if we determine that the
3236 applicant did not know about a specific condition, we would
3237 not rescind.

3238 Mr. {Stupak.} So like Ms. Horton there, you wouldn't
3239 have rescinded her?

3240 Mr. {Sassi.} I can't speak to the specifics of Ms.
3241 Horton's case. I am not familiar with the specifics. I am
3242 sorry.

3243 Mr. {Stupak.} Mr. Barton for questions, please.

3244 Mr. {Barton.} Thank you. I want to thank our witnesses
3245 for being here. This is a difficult situation. But I
3246 listened when you all answered Chairman Stupak's question
3247 about unintentional omissions, and to your credit you were
3248 honest that you would reserve the right to still rescind some
3249 of these policies. Doesn't it bother you that people are
3250 going to die because you insist on reviewing a policy that
3251 somebody took out in good faith and forgot to tell you that
3252 they were being treated for acne? Doesn't that bother you?

3253 Mr. {Hamm.} Yes, sir, it does, and we regret the
3254 necessity that that has to occur even a single time, and we
3255 have made suggestions that would reform the system such that
3256 that would no longer be needed.

3257 Mr. {Barton.} Well, you know, I haven't heard your
3258 opening statements, I glanced at them, and I haven't heard
3259 the first round of questions. We understand the need to
3260 verify that people are telling the truth. We are not asking
3261 you guys, the insurance industry, to automatically take
3262 somebody's word for it. I mean, I understand that. But when
3263 I see advertisement after advertisement about be a part of
3264 the family and we treat you like, you know, our own family,
3265 and then somebody who doesn't have group coverage takes out
3266 an individual policy and runs into some situation where they
3267 have a health care issue that requires a major claim early in

3268 the policy, if they operate in good faith in taking out the
3269 policy and you approve them, I really don't think it is good
3270 business practice to go back and try to figure out a way to
3271 rescind that policy. If nothing else, it is a false trade
3272 practice, truth in advertising, and one of the beauties of
3273 our Constitution is a little thing called federal preemption.
3274 We have the authority on this committee to preempt State law
3275 if it is interstate commerce. Now, we can't preempt State
3276 law in intrastate commerce but we can in interstate commerce,
3277 and I don't think there is one vote on this committee for the
3278 practice of retroactively reviewing a policy to try to
3279 rescind it if you have a woman like my constituent, Ms.
3280 Beaton, who discovers that she has breast cancer or you have
3281 somebody who needs a stem cell transplant or even the young
3282 lady from California who just needed some blood work done.
3283 We will back you up on fraud and misrepresentation but I
3284 don't think you are going to get a vote at all on rescissions
3285 that are not material to the claim being processed. I don't
3286 know that that is a question. That is just a statement. If
3287 you would like to comment on that, I would certainly like to
3288 give you the opportunity to do it.

3289 Mr. {Stupak.} No one cares to answer?

3290 Mr. {Hamm.} I would just reinforce that rescission
3291 would only occur when the information was material to the

3292 initial--if the information was material to the underwriting
3293 decision, only in that case.

3294 Mr. {Barton.} Mr. Chairman, I am going to yield back.

3295 I mean, I would--

3296 Mr. {Stupak.} Could I follow up on that?

3297 Mr. {Barton.} Sure.

3298 Mr. {Stupak.} Well, if it is material to the
3299 representation--let me ask you this. In your policy, Mr.
3300 Hamm, it states, and it is question number 14 on your
3301 questionnaire, your enrollment questionnaire. Now, tell me
3302 how you get a misrepresentation. Within the last 10 years--
3303 this is what it says--because you said Assurant Health's
3304 enrollment questionnaires are simple, easy to understand,
3305 straightforward language, so people can easily and accurately
3306 report their medical history. So your question says, within
3307 the last 10 years, has any proposed insured had any
3308 diagnosis, received treatment for or consulted with a
3309 physician concerning phlebitis, TIA, cystitis,
3310 lymphadenopathy, glandular disorder. So tell me, what is
3311 TIA?

3312 Mr. {Hamm.} I am not aware. I believe--

3313 Mr. {Stupak.} If you don't know what it is, how would
3314 anyone filling out your application know what it is? So
3315 there is grounds to deny them right there. You don't even

3316 know what it is and neither do I. How about phlebitis or
3317 lymphadenopathy? How about lymphadenopathy? What is that?

3318 Mr. {Hamm.} I don't know the answer to those questions.

3319 Mr. {Stupak.} Do you sincerely believe that an average
3320 applicant would know what these words mean if you don't know
3321 and I don't know?

3322 Mr. {Hamm.} Sir, I believe that is an application that
3323 is not currently used at this time. I would like to--

3324 Mr. {Stupak.} It is last year's application. Yes, it
3325 is last year's application. Have you changed the application
3326 in the last year?

3327 Mr. {Hamm.} I am sorry, sir. I didn't hear you.

3328 Mr. {Stupak.} It is last year's application. Did you
3329 change it in the last year?

3330 Mr. {Hamm.} I am not aware if we have changed that
3331 application.

3332 Mr. {Stupak.} So far as you know, that is your current
3333 application?

3334 Mr. {Hamm.} But I believe that our current application
3335 asks questions back to 5 years, so the 10-year might be
3336 different than what we issue today. I would need to--

3337 Mr. {Stupak.} Well, it is the same questions, TIA,
3338 right, that you don't know what it is and--

3339 Mr. {Hamm.} I do not know what that is.

3340 Mr. {Stupak.} Mr. Deal?

3341 Mr. {Barton.} Mr. Chairman, I do have one question.

3342 Mr. {Stupak.} Sure, Mr. Barton. I took your time. I
3343 will yield to you.

3344 Mr. {Barton.} This is a hypothetical but I just want to
3345 figure out what the answer is. I had a mild heart attack 3
3346 years ago, so I now take six different medications every day
3347 and I am going to probably have to take those medications for
3348 the rest of my life. I am covered under a group plan, Blue
3349 Cross/Blue Shield of Texas and it is available to every
3350 federal employee who lives in Texas, and my coverage has been
3351 good. I have never had a problem. But let us say I quit the
3352 Congress and I go into business for myself and I try to get a
3353 private health plan like Ms. Beaton got when she switched
3354 jobs from being a nurse and went into business for herself.
3355 On the application, I have to list the medications that I am
3356 taking, the fact that I had a heart attack, give the doctor,
3357 the time, the location, but I broke my leg playing football
3358 in high school. I got a 250-pound fullback ran over a 150-
3359 pound linebacker. I was the linebacker. Now, if I forget to
3360 put on my application with your companies that I had the
3361 small bone in my left leg broken playing football in 1967,
3362 but I do put all my medications and my history of my heart
3363 attack, the fact that I omitted breaking my leg in 1967, is

3364 that a grounds to rescind my claim, my policy later on under
3365 your policies right now that your companies issue? I admit
3366 to my big problem, tell you the medications, all the stuff
3367 but I just flat forget that I broke my leg and was treated by
3368 a doctor paid by the Waco Independent School District in
3369 1967.

3370 Mr. {Sassi.} Congressman Barton, our underwriting
3371 guidelines really kind of dictate that but it is my
3372 understanding of how our underwriting guidelines work is that
3373 since that condition would not be material in our initial
3374 underwriting decision because it happened so far in the past
3375 and was of a non-serious nature, that that would not have
3376 factored into the underwriting decision.

3377 Mr. {Barton.} And I understand you might cover me
3378 because of my heart attack. I understand that. It would be
3379 totally within your company's right to say Congressman Barton
3380 had a heart attack in 2004 or 2005, therefore we can't issue
3381 him a policy. I understand that. My question is really
3382 about my leg injury from way back when. If I don't disclose
3383 that, does that disqualify me potentially on down the road?
3384 Mr. Collins?

3385 Mr. {Collins.} Sir, the application is looking for
3386 information going 10 years back so that--

3387 Mr. {Barton.} So that would not be material?

3388 Mr. {Collins.} That would not be material.

3389 Mr. {Barton.} Mr. Hamm?

3390 Mr. {Hamm.} The same answer as Mr. Collins.

3391 Mr. {Barton.} Thank you, Mr. Chairman.

3392 Mr. {Stupak.} Mr. Deal for questions, please.

3393 Mr. {Deal.} Thank you, Mr. Chairman.

3394 We are talking her in the private insurance market and I
3395 believe, Mr. Sassi, you said that somewhere in the 15 million
3396 range. Is that correct?

3397 Mr. {Sassi.} Correct.

3398 Mr. {Deal.} To you three gentlemen, do you also have
3399 policies that extent to ERISA-type coverage plans?

3400 Mr. {Sassi.} Yes. WellPoint insures one in nine
3401 Americans. The vast majority of our members are covered
3402 under ERISA plans.

3403 Mr. {Deal.} Mr. Collins?

3404 Mr. {Collins.} Yes, sir, the majority of our membership
3405 are also in group insurance plans which are covered under
3406 ERISA.

3407 Mr. {Deal.} Mr. Hamm?

3408 Mr. {Hamm.} The majority of our policies are
3409 individual. However, we do have some customers that are
3410 under ERISA.

3411 Mr. {Deal.} Does the same problem pertain in the ERISA

3412 marketplace as in this private insurance marketplace? Ms.
3413 Pollitz, you indicated you think it does.

3414 Ms. {Pollitz.} There is rescission in the small group
3415 market. It operates a little bit differently because that is
3416 a guaranteed issue market, but a similar process if a claim
3417 is submitted during the pre-X period. It is largely the
3418 eligibility of the members of the group and the family
3419 members of the group that will be reinvestigated to see if
3420 there is any way that the people who made the claim shouldn't
3421 have been on that policy in the first place.

3422 Mr. {Deal.} But the State periods like 2 years do not
3423 apply because it is an ERISA plan?

3424 Ms. {Pollitz.} Well, your pre-X rules are also much
3425 tighter in the small group market so Congress has said these
3426 questions about 10 years ago, 5 years ago, those don't matter
3427 in the small group market. You are only allowed to apply--an
3428 insurer is only allowed to apply preexisting condition for
3429 something that was actually treated or diagnosed in the six-
3430 month window prior to coverage taking effect. So anything
3431 that happened before that isn't even allowed to be
3432 considered, and if the person coming into the policy had
3433 prior group coverage, that gets credited against the pre-X so
3434 that can't be considered either. So it is mostly
3435 eligibility, and I have seen--

3436 Mr. {Deal.} I am going to try to be real quick here and
3437 I apologize for cutting you off. With regard to what needs
3438 to be done, in the event we don't get the major reform that
3439 you all have been talking about, anybody else is talking
3440 about, in the event it becomes something of trying to narrow
3441 a time window in which insurance companies have the right to
3442 review medical records, would it not be feasible that if we
3443 had electronic medical records that that would facilitate a
3444 more timely review? I would assume common sense would say
3445 that it would. Ms. Pollitz, do you foresee that consumer
3446 protection groups would oppose making those kind of personal
3447 medical records available for insurance companies to review
3448 in a timely fashion so that we would not hopefully have these
3449 situations to develop?

3450 Ms. {Pollitz.} They are already available for review.

3451 Ms. {Deal.} Well, we don't have the extent of
3452 electronic medical records that we all hope we will have.

3453 Ms. {Pollitz.} But the privacy rules that you have in
3454 force today under HIPAA say that medical underwriting is a
3455 permissible reason for disclosure of medical records.

3456 Mr. {Deal.} You would see no reason that anybody would
3457 raise that issue?

3458 Ms. {Pollitz.} It is already permitted under current
3459 law.

3460 Mr. {Deal.} The last thing, and this is more of a
3461 comment than anything else, I think the issue that Dr.
3462 Burgess discussed with you about those who are now being
3463 excluded because of preexisting conditions, et cetera. I
3464 think we all know that our high-risk pools are not
3465 effectively operated and certainly nonexistent in States like
3466 mine, for example. I think we need to be looking at a policy
3467 where we would maybe take those funds that are available for
3468 high-risk pools, some of which are not being utilize, put
3469 them into an environment in which we could perhaps with the
3470 sharing of some of those costs with the insurance industry
3471 bring these individuals into the pool with the additional
3472 revenue that would be available from federal sources. I just
3473 simply suggest that something we all need to be thinking
3474 about in my opinion. Thank you, Mr. Chairman. I yield back.

3475 Mr. {Stupak.} Mr. Burgess, do you want to question now
3476 or do you want to come back after votes? We only have 5
3477 minutes, so I am going to have to hold you tight.

3478 Mr. {Burgess.} Okay. You know me. I can be really
3479 brief.

3480 Mr. {Stupak.} I have never seen it yet, but go ahead if
3481 you want to try.

3482 Mr. {Burgess.} I will just ask all three of you
3483 briefly, you know, you have heard the discussion of the

3484 public option plan. What is your opinion of that?

3485 Mr. {Hamm.} I oppose the public plan option.

3486 Mr. {Burgess.} Mr. Collins?

3487 Mr. {Collins.} Sir, I believe that with the reforms
3488 that have been proposed, that we can make the market work
3489 much better without a public plan.

3490 Mr. {Burgess.} And Mr. Sassi?

3491 Mr. {Sassi.} We also oppose a public plan. We also
3492 feel that--

3493 Mr. {Burgess.} I don't want to be the one to have to
3494 break this to you, but the reality is, you are very likely to
3495 get a public plan. You are not likely to get the deal that
3496 was struck by AHIP down at the White House. I mean, I think
3497 you can see the handwriting on the wall. I would urge you to
3498 think outside the box on this one. There are ways that we
3499 can solve this problem without going to a public plan, in my
3500 opinion, and without leaving so many people uninsured,
3501 without leaving so many people fall through the cracks, as we
3502 heard this morning. Clearly the situation as it stands right
3503 now is unstable. It is untenable. We can't continue it.
3504 But you guys have got to be able to come to the table with
3505 some innovative thinking on how we provide coverage to that
3506 segment of the population that is particularly vulnerable and
3507 needs the coverage. We don't need to turn the whole system

3508 on its head just to cover that 10 or 15 percent that is right
3509 now left out but that is what we are going to do if you don't
3510 help us with this, and the fallback position, I promise you,
3511 is a government-run plan and that is what you are going to
3512 get if we don't work together on this issue, so I appreciate
3513 you all being here today. Mr. Chairman, I appreciate the
3514 extra time and I am going to yield back.

3515 Mr. {Stupak.} Okay, so you didn't have a question on
3516 the subject of today's hearing. Okay. In all fairness to
3517 WellPoint, I said in my opening statement--and if you care to
3518 comment, please do. I said in my opening statement in the
3519 committee investigation, WellPoint evaluated employee
3520 performance based in part on the amount of money its
3521 employees saved the company through retroactive rescissions
3522 of health insurance policies. According to the documents
3523 obtained by the committee, one WellPoint official was awarded
3524 a perfect score of five for exceptional performance based on
3525 having saved the company nearly \$10 million through
3526 rescissions. Do you care to comment on that? I think it is
3527 fair to give you an opportunity to comment on it.

3528 Mr. {Sassi.} Thank you, Chairman. During the process
3529 of collecting information requested by this committee, we did
3530 uncover two performance appraisals from 2003 that were
3531 isolated to one area within California that included one line

3532 each referring to retro savings and a dollar amount. They
3533 were in the context of a part of the performance appraisal
3534 with other metrics and they were part of a more comprehensive
3535 performance appraisal that was, I think, five to seven pages
3536 long. I reiterate my statement that WellPoint does not have
3537 a policy, it has not been our policy to systematically reward
3538 associates for performing rescissions, for tracking the
3539 number of rescissions or the dollar amounts.

3540 Mr. {Stupak.} But didn't both of those employees
3541 receive bonuses, somewhere between \$600 to about \$6,000, I
3542 think the range was?

3543 Mr. {Sassi.} My understanding is that those associates
3544 received within the average compensation that all WellPoint
3545 associates received for that given time period.

3546 Mr. {Stupak.} Okay, so it is not the reviewers, all
3547 your employees--okay. With your profits, I guess you could
3548 give bonuses.

3549 All right. That concludes our hearing for today. The
3550 committee rules provide that members have 10 days to submit
3551 additional questions for the record. The record book has
3552 already been submitted for the record. We will redact any
3553 business proprietary or anything that relates to privacy
3554 concerns or is law enforcement-sensitive, so that will be
3555 entered into the record.

3556 That concludes our hearing. I thank all of our
3557 witnesses for coming, and that concludes this subcommittee
3558 hearing.

3559 [Whereupon, at 1:35 p.m., the subcommittee was
3560 adjourned.]