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ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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January 4, 2011

The Honorable Fred Upton
Chairman-Designate
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Dave Camp
Chairman-Designate
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable John Kline
Chairman-Designate
Committee on Education and Labor
U.S. House of Representatives
Washington, DC 20515

Dear Chairman-Designate Upton, Chairman-Designate Camp, and Chairman-Designate Kline:

We write to object to the apparent decision of the House Republican leadership to bring to the floor next week legislation to repeal the Affordable Care Act. Republicans won control of the House in the November elections promising to bring greater transparency in government and more fiscal responsibility. It is insincere to run on a platform of openness and fiscal discipline and then in one of your first acts as the majority party bring major legislation to the floor without any public hearings and without paying for the trillion dollar cost of repeal.

Repealing the health care law will increase the deficit, kill jobs, increase taxes, and deny care to women, children, and seniors. The legislation you are considering repealing affects a major part of our economy. Since enactment of the Affordable Care Act last year, millions of Americans are receiving health benefits under the legislation, millions of small businesses are making coverage decisions based on the tax credits provided by the legislation, and countless

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doctors, hospitals, and health providers across the nation have made changes in their practices in response to the new law. Repeal would cause widespread disruption that would reverberate across the nation.

There are many examples of the kinds of disruption that would be caused by repeal:

- Repeal would eliminate the ban on discrimination by health insurers based on pre-existing conditions. Under the health reform law, this ban is already in effect for policies for children and will go into effect for policies covering adults in the near future. Without this ban, insurance companies could resume denying coverage to individuals suffering from hundreds of medical conditions.
- Repeal would let health insurance companies rescind coverage when a policyholder gets sick. An investigation by the Committee on Energy and Commerce revealed that prior to health reform, many insurers engaged in the practice of retroactive termination, called “rescission,” of coverage after individuals become ill, often for specious reasons. Repeal of the reform law would allow insurers to resume rescissions.
- Repeal would eliminate tax credits for small businesses and American families. The Affordable Care Act makes up to four million small businesses eligible for tax credits for up to 35% of the cost of providing health insurance. In addition, when fully implemented, the Affordable Care Act will give middle class families the largest tax cut for health care in history, providing tax credits for families with incomes up to \$88,000 for a family of four.
- Repeal would increase costs for seniors and cut important new benefits. The health reform law provides a 50% discount for prescription drugs for all Medicare beneficiaries who reach the Medicare “Part D” donut hole beginning in 2011. Repeal would increase the average cost of prescription drugs for Medicare beneficiaries who reach this coverage gap by over \$500 in 2011 and \$3,000 by 2020. Under the health reform law, Medicare can no longer charge seniors for recommended preventive services, including a free annual wellness visit. Private insurers are also required to offer these services without charge.
- Repeal would increase costs for employers. More than 3,000 employers are currently receiving help paying for the costs of their early retiree health care. That includes more than 50% of the Fortune 500, and over 200 companies and local governments in each of your states of Michigan and Minnesota. Repealing health reform would increase employer costs during a fragile economic recovery.

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- Repeal would eliminate health insurance options for young adults. The health reform law allows young adults to remain on their parents' insurance policies up to age 26. One in three young adults was uninsured prior to health reform.
- Repeal would eliminate the ban on annual and lifetime limits on covered benefits. The health reform law ensures families do not have to face financial ruin because of circumstances beyond their control such as a child contracting a critical illness.

And repeal would have tremendous adverse fiscal consequences. According to the Congressional Budget Office, the health reform law will reduce the deficit by over \$100 billion over the next ten years and by \$1.2 trillion over the second decade. It will also extend the solvency of the Medicare trust fund from 2017 to 2029. If Republicans succeed in repealing the law, this will balloon the federal deficit and shorten the life of the Medicare trust fund by twelve years.

These consequences need to be examined in public hearings so that Members of Congress and the American people understand the full ramifications of your legislative proposal. Whatever your views about the health reform law prior to passage, the bill is now part of our health care system and millions of families and businesses have made decisions based upon the new law. We need to hear from representatives of the small businesses, seniors, middle-class families, and young adults whose health care costs would be affected and whose health care rights would be taken away by repeal. We should also hear from physicians, nurses, hospitals, and health insurers about the kinds of disruptions they would experience. And we should consider the views of states, national health care policy experts, the Congressional Budget Office, and other nonpartisan economic experts about the impact repeal would have on our health care system.

The contrast between the approach the Republican leadership is proposing and the open process the Democrats followed last Congress is stark. Before the House voted on health reform legislation in November 2009, the three Committees of jurisdiction spent nearly 100 hours in hearings, featuring testimony from 181 witnesses. The Committee on Energy and Commerce Committee alone held over ten days of hearings on health reform. The text of our bill was posted online for four weeks before we commenced our Committee markups. And when we proceeded to markup, the three Committees debated a total of 239 amendments, approving 121 amendments, including amendments offered by Republicans.

As you may recall, Republican leaders repeatedly criticized Democrats for moving too fast and not holding enough hearings. When the Committee on Energy and Commerce began its markup on July 16, 2009, Mr. Upton complained about the lack of a subcommittee markup, saying: "I have been on this Committee since 1991, and I do not remember a time that we

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skipped on a major bill like this ... the subcommittee of jurisdiction. We shouldn't have skipped that. We should have had the subcommittee vet this out. We should have had a better understanding to get this bill done.”¹ Mr. Upton also wrote to complain about insufficient consultation.² Ranking Member Joe Barton and other leading Republicans repeatedly asked for additional hearings.³

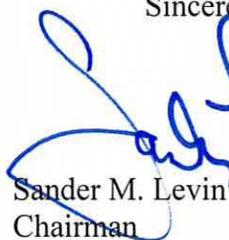
Now that Republicans are in charge, you and your leadership are proposing to repeal health reform and disrupt patients, doctors, and health care providers across the country without even a single day of hearings. There will be no subcommittee consideration like you asked for last Congress, nor any committee consideration at all. This is an offense to good government. The Republican leadership is apparently trying to do with speed and stealth what could not be accomplished in the light of public hearings.

You will soon be Chairmen of the Committees with jurisdiction over the health policies of our nation. We urge you to reject the strategy of keeping from the American people the negative impacts of repealing the Affordable Care Act and insist that our three Committees hold public hearings and markups before this legislation comes to the House floor.

Sincerely,



Henry A. Waxman
Chairman
Committee on Energy and
Commerce



Sander M. Levin
Chairman
Committee on Ways and
Means

George Miller
Chairman
Committee on Education and
Labor

¹ Statement of Rep. Fred Upton, Committee on Energy and Commerce, *Business Meeting: Markup of H.R. 3200, America's Affordable Health Choices Act of 2009* (July 16, 2009).

² Letter from Reps. Joe Barton, Nathan Deal, Fred Upton, and other Energy and Commerce Committee Republicans to Chairman Henry A. Waxman (June 19, 2009).

³ Letter from Reps. Howard P. “Buck” McKeon, Joe Barton, and Dave Camp, to Chairman George Miller, Chairman Henry A. Waxman, and Chairman Charlie Rangel (June 9, 2009); Letter from Rep. Joe Barton to Chairman Henry A. Waxman (July 8, 2009); Letter from Rep. Joe Barton to Chairman Henry A. Waxman (Oct. 30, 2009).