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3 HEARING ON ``HEALTH CARE ISSUES INVOLVING THE CENTER FOR

4 CONSUMER INFORMATION AND INSURANCE OVERSIGHT''

5 WEDNESDAY, FEBRUARY 16, 2011

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 9:30 a.m., in  
11 Room 2322 of the Rayburn House Office Building, Hon. Cliff  
12 Stearns [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Stearns, Sullivan,  
14 Murphy, Burgess, Blackburn, Myrick, Gingrey, Scalise,  
15 Gordner, Griffith, Barton, DeGette, Schakowsky, Weiner,  
16 Green, Dingell, and Waxman (ex officio).

17 Staff present: Caroline Basile, Staff Assistant; Mike  
18 Bloomquist, Deputy General Counsel; Allison Busbee,

19 Legislative Clerk; Karen Christian, Counsel, Oversight; Stacy  
20 Cline, Counsel, Oversight; Howard Cohen, Chief Health  
21 Counsel; Julie Goon, Health Policy Advisor; Todd Harrison,  
22 Chief Counsel, Oversight/Investigations; Sean Hayes, Counsel,  
23 Oversight/Investigation; Ruth Saunders, Detailee, ICE; Alan  
24 Slobodin, Deputy Chief Counsel, Oversight; Sam Spector,  
25 Counsel, Oversight; John Stone, Associate Counsel; Tim  
26 Torres, Deputy IT Director; Lyn Walker, Coordinator,  
27 Administration/Health Resources.

|  
28           Mr. {Stearns.} We convene this hearing of the  
29 Subcommittee on Oversight and Investigation today to gather  
30 information on the entity responsible for overseeing the  
31 Administration's changes to the private insurance market, the  
32 Center for Consumer Information and Insurance Oversight.

33           It has been nearly a year since the health care law was  
34 enacted, and this is the first hearing this subcommittee has  
35 had since passage of the law devoted exclusively to its  
36 effects. This center is responsible for the massive changes  
37 being made by the Administration to the private insurance  
38 market. It is responsible for new insurance market rules,  
39 the temporary high-risk pools, new medical loss ratio rules,  
40 and will assist States in implementing the massive new  
41 regulatory burdens imposed by the Administration.

42           Our witnesses today are former Director of the Center  
43 and the current one, Mr. Jay Angoff, who ran the office from  
44 its inception after the passage of the bill until earlier  
45 this year. We know very little about this creation of this  
46 office, and I hope this hearing this morning will finally  
47 shine some light on how this office was, in fact, created,  
48 how it is simply organized, and why it is recently moved from  
49 HHS to CMS on literally, literally the day the Republicans  
50 took the majority in the 112th Congress. Just a coincidence

51 I am sure.

52 We also know little about how this office is funded. Is  
53 it paid for out of the Health Care Law that was signed last  
54 year? Is HHS taking money from another program? So we know  
55 very little, and what we do know has not made a favorable  
56 impression on us, perhaps because we don't understand.

57 Last year the New York Times reported, ``In Bethesda,  
58 Maryland, more than 200 health regulators working on  
59 complicated insurance rules have taken over three floors of a  
60 suburban office building, paying almost double the market  
61 rate for the space in their rush to get started.'' So I hope  
62 the Administration and its regulators are better at writing  
63 regulations than perhaps inviting leases.

64 Our other witness is Mr. Steve Larsen. Mr. Larsen was  
65 recently promoted to Director of the Center and had  
66 previously served in the Center's Office of Oversight, the  
67 office that was responsible for granting waivers from the  
68 Obama Administration's Health Care. I think it is an  
69 understatement to say that these waivers have been  
70 controversial.

71 The Administration was sold--the Administration's Health  
72 Care Plan was sold as all benefit and no downside, so when  
73 the public began hearing that while they would have to comply  
74 with all the new regulations and costs while other

75 individuals would get waivers from the Administration and  
76 thus not have to comply and bear the same burdens, obviously  
77 they weren't happy. After all, they were promised that if  
78 they like their coverage, they could keep it. We heard this  
79 mantra over and over again. If you like your coverage, you  
80 can keep it.

81 They were promised lower premiums. They were promised  
82 lower costs, so simply what did they get? Lost coverage,  
83 higher premiums, and higher costs in our opinion, and when  
84 the damaging effects of the Administration's Health Care Plan  
85 got so bad that people were starting to notice, then it was  
86 time for waivers. The promises made by supporters of the law  
87 just simply have not come true.

88 The Chief Actuary for the Center for Medicare and  
89 Medicaid Services recently testified that the law will  
90 likely, will likely not hold down costs. He went on to say  
91 that not everyone will be able to keep their coverage, even  
92 if they like it. Meanwhile, the adverse effects of the law  
93 on the private sector have been undeniable. Companies are  
94 considering dropping coverage, insurers are opting to exit  
95 from the market, and consumers are left with fewer options,  
96 in fact. And of those options available the premiums  
97 continue to rise thanks to the costly mandates and  
98 regulations in Obama Care.

99           It certainly doesn't get any better when you look at how  
100 the government is handling this Health Care Bill. Last month  
101 this subcommittee's hearing on the need for regulatory reform  
102 highlighted how numerous regulations in the Health Care Bill  
103 have been issued without even public comment. If an idea is  
104 controversial and lacks popular support, like end-of-life  
105 counseling, for example, then it simply sneaks into the  
106 regulations in the hope that nobody will notice. No comment  
107 period. Just happens to appear.

108           So today, my colleagues, we will hear testimony about  
109 why so many companies and insurers need to be excluded, given  
110 waivers from this great Health Care Bill that the  
111 Administration has touted. Ironically, considering that if  
112 you listen to the Administration for the last 2 years, you  
113 would wonder why anyone would ever need to be protected from  
114 this law, yet today we have learned that over two and a half  
115 million people have been exempted from the Administration's  
116 Health Care Plan through these waivers. Two and a half  
117 million people need to literally, literally be protected from  
118 the devastating effects of the Health Care Bill the  
119 Administration has passed. Yes, protected.

120           Under the very standards determining whether a waiver  
121 will be granted, a company or insurer needs to show that  
122 unless a waiver was granted, beneficiaries were either going

123 to face significant premium increases or a significant  
124 reduction in access to benefits. So we will hear today that  
125 these waivers are necessary because the plans they affect  
126 offer little coverage. We will likely hear at length today  
127 that the reason it is okay to give out these waivers is  
128 because in 2014, the exchanges will finally, will finally  
129 provide low-cost, quality health care, yet nearly every  
130 promise made about Obama Care has been broken.

131         During the debate on health care our party offered many  
132 solutions to expand access to health care services without  
133 raising costs or bankrupting the country. They were not  
134 passed. They were ignored. So I am hopeful today that we  
135 begin to examine the effects of the Administration's Health  
136 Care Bill. Americans from all parties, both parties will  
137 begin to see the value in our ideas, ideas that rely on  
138 commonsense and free-market solutions and perhaps not on  
139 decisions that are made by the federal bureaucracy.

140         I am very interested in the testimony we will hear  
141 today, because this center is responsible for many of the  
142 changes in the Administration's Health Care Bill that it  
143 makes to the private insurance market, and I hope our  
144 witnesses will shine some light on the reasons for these  
145 changes. I know this is a busy season for them, so I  
146 appreciate them coming up here and especially with the budget

147 process and the budget being released this week. So I thank  
148 them sincerely for their time.

149 Today marks the beginning of what the public voted for  
150 in 2010, real and sustained oversight of the federal takeover  
151 of the health care industry, and with that I recognize  
152 distinguished colleague, Ms. DeGette.

153 [The information follows:]

154 \*\*\*\*\* INSERT 2 \*\*\*\*\*

|  
155           Ms. {DeGette.} Mr. Chairman, out of deference to the  
156 two hearings this morning, I am going to defer to the Ranking  
157 Member to make his opening statement first.

158           Mr. {Stearns.} Mr. Waxman is recognized.

159           Mr. {Waxman.} Thank you very much. I am a strong  
160 believer in effective oversight. It is essential to assure  
161 that the laws passed by the Congress are implemented in the  
162 most effective and efficient way possible, and that is why I  
163 support oversight of the Affordable Care Act.

164           The Health Reform Law passed by Congress, signed into  
165 law by President Obama last year provides tremendous  
166 benefits. Insurers are banned from discriminating against  
167 children with pre-existing conditions. Seniors are already  
168 benefiting from lower drug prices. Small businesses are  
169 getting tax cuts to pay for health insurance. The law has  
170 benefits for all Americans, and we ought to be doing what we  
171 can to make sure the Administration is implementing the law  
172 appropriately.

173           But I am concerned, Mr. Chairman, that this committee is  
174 using oversight as another means of blocking the  
175 implementation of the law. Over the last few weeks the  
176 committee issued a broad document request to the Department  
177 of Health and Human Services that require massive document

178 searches for no apparent purpose. Already HHS has provided  
179 over 50,000 pages of documents in response to these requests,  
180 and already we are seeing Republican leaders make  
181 unsubstantiated allegations that wrongly accuse the  
182 Department of misconduct and mismanagement. Before they have  
183 even had the hearing and gotten the facts Republicans are  
184 telling us that the law has failed, and I believe that it is  
185 not true.

186       The subject of today's hearing is the formation of the  
187 HHS Center for Consumer Information and Insurance. This  
188 group within HCFA, within CMS has provided insurers from a  
189 provision of the Health Care Bill banning annual limits on  
190 health care coverage. The insurers are saying unless they  
191 get some of these waivers, the price of the insurance will go  
192 up before we get to the period of 2014, or the availability  
193 of the insurance will not be as much as it has been in the  
194 past. So we wrote into the law that we wanted the Department  
195 to give these waivers, at least until 2014, when the law will  
196 be fully in effect.

197       Our Chairman has asserted that the granting of this  
198 waiver, these waivers show that health care reform is flawed.  
199 ``If the law is so good, why are so many waivers to the law  
200 being granted,'' said Senator Orrin Hatch, when decried the  
201 lack the transparency. Oversight Chairman Darrell Issa has

202 asserted that unions have received special treatment because,  
203 ``Bureaucrats are picking winners and losers in a politicized  
204 environment where the winners are favored constituencies of  
205 the Administration.''

206 But let us look at the facts. The waiver process has  
207 been transparent and efficient. HHS put out an interim final  
208 rule, their set of guidance, and worked individually with  
209 each applicant to resolve any problem with waiver requests.  
210 Over 90 percent of all entities that applied for waivers were  
211 approved. The average wait time for approval of a completed  
212 waiver request was only 13 days. The process has been fair.

213 Contrary to Chairman Issa, there has been no favoritism  
214 to unions. The information HHS has provided to the committee  
215 shows that plans that serve union employees were almost five  
216 times as likely to have their waivers denied as non-union  
217 plans. Nine of the last ten largest applicants to be denied  
218 waivers were plans that provided care for union members.

219 The law and waiver process are designed to accommodate  
220 plans with low annual limits known as limited benefit plans  
221 or mini-med plans. These plans either have a set limit of  
222 dollars that they will spend on benefits or a limited amount  
223 of benefits that may be received or a cap on specific  
224 benefits. These are plans that by 2014 will no longer be  
225 able to do what they are doing because in 2014, all plans are

226 going to have to cover the minimum health insurance package.  
227 They will not be able to discriminate on the basis of pre-  
228 existing conditions, and consumers and small businesses will  
229 have improved access to affordable care through no health  
230 insurance exchanges.

231         The waivers are intended to provide a smooth transition  
232 between now and 2014. They affect a small population, less  
233 than 2 percent of all Americans with employer-based coverage,  
234 but for this group they provided valuable interim relief.

235         The Democratic staff has prepared an analysis of the  
236 waiver process that documents its success, and I ask this  
237 analysis be made part of today's hearing record.

238         [The information follows:]

239 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
240           Mr. {Waxman.} I was the Ranking Member of the Oversight  
241 Committee when Dan Burton was Chairman, and during that time  
242 President Clinton was in office. No allegation was too wild  
243 for him not to pursue. The committee would demand thousands  
244 of documents, take up hundreds of hours of taxpayer's time in  
245 investigations that cost taxpayers millions of dollars, all  
246 with no regard for the basic facts of the case.

247           An allegation would come out before they got the  
248 information, and then when the information came out  
249 disproving the allegation, they were already ready for  
250 another allegation. They moved 1 day to the next with a tax,  
251 a tax, a tax.

252           Well, Mr. Chairman, I hope we are not going to see that  
253 go on in this committee and in this Congress. Let us be  
254 fair, let us get the facts, and let us see what the reality  
255 is before we make any of these accusations that I have been  
256 hearing.

257           I yield back the balance of my time.

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

259 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
260 Mr. {Stearns.} Yields back the balance of his time and  
261 I recognize the gentlelady from Tennessee for 2 minutes.

262 Mrs. {Blackburn.} Thank you, Mr. Chairman. I welcome  
263 our witnesses today. We have been waiting a long time to ask  
264 you these questions that we have for you, and reading your  
265 prepared remarks I think we would all be led to believe that  
266 this has been an unqualified success in its rollout. You  
267 talk a lot about benefits, but you don't talk a lot about  
268 expected costs, and we will want to talk with you about that.

269 I want to go to the waivers because there have been some  
270 900 health plans that have been given waivers, and we will  
271 discuss those waivers as we move forward. I think we are  
272 going to want to know what happens in 2013, and 2014, when  
273 those companies are not able to get waivers. These waivers  
274 gave relief to some plans but will happen to--we want to know  
275 what is going to happen when the other mandates of Obama Care  
276 are phased in, and it seems to me that these are 900 new  
277 stories that the Administration probably is wanting to avoid  
278 because private sector plans that are working for people,  
279 they don't want to come under Obama Care. And so they are  
280 coming to you to get a waiver.

281 In Tennessee we have been down this costly road before,  
282 and Mr. Chairman, I have some charts on what happened in

283 Tennessee that I would like to submit for the record.

284 [The information follows:]

285 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
286           Mrs. {Blackburn.} As I have repeatedly stated in this  
287 committee, TennCare gave unlimited access to care, it  
288 incentivized use rather than controlled costs, it reached the  
289 point of consuming 35.3 percent of the State budget. That  
290 was in 2005. Nearly bankrupted the State, so I am going to  
291 want to know if you are using history as a guide, what is  
292 your plan for dealing with cost acceleration which comes on  
293 you very quickly if you look at the TennCare model which is  
294 the closest thing in this country to what you have.

295           Even our former governor, a Democrat, Phil Bredesen,  
296 had--did a lot to reign in exploding costs, implementing a  
297 program, but, there again, we saw what happened in our State.

298           I thank you, Mr. Chairman. I yield back.

299           [The prepared statement of Mrs. Blackburn follows:]

300           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
301 Mr. {Stearns.} And I thank the gentle lady. Recognize  
302 Dr. Burgess for 1 minute.

303 Dr. {Burgess.} For 1 minute?

304 Mr. {Stearns.} We are going to go 1 minute to Mr.  
305 Burgess, 1 minute to Mr. Gardner, and 1 minute to Mr. Barton.

306 Dr. {Burgess.} All right. Very well. Then let me just  
307 welcome our witnesses. It is good to see you again, Mr.  
308 Angoff. We had a nice visit last November. This is an issue  
309 that has been of great interest to me for quite some time.  
310 In fact, you were known by a different acronym when I met  
311 with you and, now I followed with interest that there have  
312 been some changes within the agency, and whether those are  
313 good or bad remains to be determined.

314 Mr. Waxman spoke eloquently of the problems that he saw  
315 in a previous Congress, but let me just allude to the  
316 problems that I saw in the last Congress when we decided to  
317 be indifferent to oversight and not even ask a simply  
318 question. We passed this law in my opinion in a way that was  
319 poorly done, and then your agency, within the agency was set  
320 up with very little notice to the Congress. No one knew you  
321 were here, no one knew how much money you were spending,  
322 where it was coming from, and then we find out that in order  
323 for the Patient Protection and Affordable Care Act to work

324 you had to give two and a half million people waivers. Well,  
325 it doesn't sound to me like the definition of a good solid  
326 foundation.

327         So I am grateful that we are doing the oversight now,  
328 grateful to the subcommittee Chairman for calling this  
329 hearing. I wish we could have done this several months ago.  
330 I think it would have helped all of us, but thank you, Mr.  
331 Chairman. I will yield back.

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

333 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
334 Mr. {Stearns.} Thank the gentleman, and Mr. Gardner,  
335 you are recognized for 1 minute.

336 Mr. {Gardner.} Thank you, Mr. Chairman, and the  
337 witnesses for attending today for convening our first  
338 hearing, oversight hearing, on the Patient Protection and  
339 Affordable Care Act.

340 A lot of promises have been made about health care  
341 reform. Costs would be lower, people would have better  
342 access to health care. If people liked their coverage, they  
343 could keep it. Those promises are not being kept.

344 The waivers issued by HHS exempting health plans from  
345 the prohibition on annual or lifetime benefits or lifetime  
346 limits on benefits is a good case study. Over 900 health  
347 plans would have been forced to reduce benefits, raise costs  
348 to their enrollees, or drop the plans altogether because  
349 complying with the requirements of the Health Care Bill was  
350 just too expensive.

351 Even worse, these waivers are simply postponing reality.  
352 What will happen as other requirements of the law are phased  
353 in and health care plans, health plans are not able to comply  
354 with those further financial burdens? This is why this  
355 committee's investigation of the bill is so timely in the  
356 Center for Consumer Information and Insurance Oversight. We

357 cannot wait until the exchanges are up and running to  
358 discover that they are not working. Congress can't stick its  
359 head in the sand and deny the law of economics. Companies  
360 that need waivers today will not suddenly be able to provide  
361 even more required benefits in 2012, when the Health Care  
362 Bill fully kicks in.

363 Many of the assumptions that are underpinning the Health  
364 Care Bill have proven to be false. For instance, it was  
365 estimated that 375,000 people would enroll in the high-risk  
366 pools. Instead, only 12,000 people enrolled. Recent  
367 articles and the news have discussed the increasingly  
368 unbearable burden that Medicaid places on State budgets.  
369 Medicaid is 21 percent of total State spending and annual  
370 spending growth on the program doubled between 2008, and  
371 2009.

372 I am excited to get to work on this. I believe we have  
373 got a lot of work to do and look forward to hearing from you  
374 before we end up bankrupting this country.

375 [The prepared statement of Mr. Gardner follows:]

376 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
377 Mr. {Stearns.} I thank my colleague and the  
378 distinguished Emeritus Chairman, Mr. Barton.

379 Mr. {Barton.} Thank you, Mr. Chairman. I will put my  
380 formal statement in the record.

381 Today's hearing is the first of many, but I think it is  
382 telling, Mr. Chairman, that we are here today with an  
383 oversight hearing over an organization that is not explicitly  
384 authorized in the Act, whose job is to give waivers to a law  
385 that supposedly is going to lower costs, but the very reason  
386 they are giving waivers is because the cost of complying with  
387 the law is so large that over 900 companies or 900 insurance  
388 plans have been given waivers because they could not comply  
389 if they had to honor what the law said.

390 So this is going to be a good hearing. I appreciate  
391 each of you two gentlemen being here, and I will try to  
392 participate some, Mr. Chairman, but as you know, we have the  
393 FCC Commission downstairs simultaneously. So some of us have  
394 to try to be two places at one time, which is--

395 Mr. {Stearns.} I appreciate your--

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

397 Mr. {Stearns.} --staying here.

398 Mr. {Barton.} Thank our witnesses.

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

400 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
401           Mr. {Stearns.} Thank you. The gentlelady, Ms. DeGette,  
402 is recognized.

403           Ms. {DeGette.} Thank you very much, Mr. Chairman.

404           Last year President Obama signed into law landmark  
405 health reform legislation to improve health care access for  
406 millions of American families and small business owners,  
407 prohibit abusive insurance practices, and to reduce our  
408 Nation's deficit. Today's hearing is focused on  
409 implementation of the law's prohibition on annual and  
410 lifetime limits on health care coverage, an important  
411 consumer protection that prevents people with chronic or  
412 catastrophic illnesses from losing their coverage after they  
413 reach an arbitrary cap on expenses established by their  
414 insurer.

415           This is a provision that is already protecting consumers  
416 and will protect millions more. Individuals with chronic and  
417 expensive diseases like diabetes, and it is widely supported.

418           Mr. Chairman, I would like to insert into the record  
419 letters from the American Cancer Society and the American  
420 Heart Association about the importance of this provision.

421           Mr. {Stearns.} By unanimous consent so ordered.

422           Ms. {DeGette.} Thank you.

423           [The information follows:]

424 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
425 Ms. {DeGette.} We are transitioning to this new policy,  
426 and millions of Americans with insurance are benefiting  
427 immediately, but a small percentage of insured Americans are  
428 in plans that will need waivers from these provisions until  
429 the Health Care Bill takes effect in its entirety in 2014.  
430 The law allows for those waivers which are the subject of  
431 today's hearing.

432 And, Mr. Chairman, you noted that two and a half million  
433 people are subject to these waivers, but I would point out  
434 that is two and a half million after--out of 164 million,  
435 which is less than 2 percent of the market.

436 The Center for Consumer Information and Insurance  
437 Oversight is responsible for implementing the consumer  
438 protections against insurers' annual limits. CCL announced  
439 that that process in a public role last summer and issued  
440 further guidance based on input from affected entities. CCO  
441 is granting waivers to this provision in cases where  
442 insurance providers show that compliance, ``would result in a  
443 significant decrease in access to benefits,'' or, ``would  
444 significantly increase premiums.''

445 Republicans on this committee and elsewhere have made a  
446 number of allegations about this agency and its process for  
447 implementing the ban on annual limits. Senator Kyl and

448 others have made statements suggesting that CCO may be  
449 providing waivers to political allies such as unions, and in  
450 fact, Mr. Chairman, you, yourself, have suggested that the  
451 volume of waivers granted indicates flaws in the Health  
452 Reform Law.

453 But the information and documents that the committee has  
454 received tell a different story. They show that the  
455 Administration is implementing the law in a fair,  
456 transparent, flexible, and efficient way. The Administration  
457 data shows over 90 percent of applicants who sought waivers--  
458 I am working on a cold. I will try not to sit too close.  
459 Ninety percent of the applicants who sought waivers for their  
460 plans received HHS approval. The average completed  
461 application was approved by HHS within 13 days with over one-  
462 third approved in under 1 week.

463 Now, this is exactly the kind of governmental efficiency  
464 that everybody across the aisle should be standing up and  
465 applauding. We reviewed e-mails that the companies  
466 requesting waivers exchanged with CMS. Here is--formerly  
467 HCFA, by the way. Here is what a few of the companies had to  
468 say.

469 I want to sincerely thank HHS for working so hard to  
470 process and approve our waiver application. ``Thanks to you  
471 and all the staff at CCIIO for your consideration and

472 effort.' ' `We just want to thank you for the prompt and  
473 courteous service you gave these applications.'

474 Mr. Chairman, these don't sound like businesses that are  
475 overburdened and fearful of government regulation. They  
476 sound like satisfied clients.

477 As for the claim of bias towards unions, the data  
478 received by the committee shows that the plans that serve  
479 union employees were almost five times more likely than  
480 average to be denied waivers. If the Administration is  
481 somehow biased in favor of unions, that frankly is a pretty  
482 strange way of showing it.

483 In the subcommittee's first hearing we learned from the  
484 Administration how the President's executive order on  
485 regulations has instructed agencies to implement laws in a  
486 manner that protects consumers while imposing the least  
487 burden possible on business. The implementation of the  
488 Annual Limits Provision provides a case in point in how the  
489 Administration is acting on those principles.

490 The plans that are receiving waivers need improvement.  
491 They are often so-called mini-med plans that offer limited  
492 benefits. In 2014, thanks to the new Health Care Bill almost  
493 all Americans will get better coverage than this, but for now  
494 these limited plans are the best coverage available for many  
495 of these workers, and the waiver process accommodates

496 business and insurers so that consumers can retain access to  
497 these plans in bridge years.

498         Based on clear regulation and guidance CCO evaluates  
499 waiver requests on clearly-explained criteria such as premium  
500 changes in percentage terms and dollar terms, the number and  
501 type of benefits affected by the annual limits, and the  
502 number of enrollees under the plan seeking the waivers.  
503 Approvals once granted are rapidly posted on the HHS website.  
504 The overall process for implementing this important health  
505 reform provision and the waiver provisions within it embodies  
506 the principles that all of us on this committee seek in the  
507 regulatory process.

508         I look forward to hearing from our two witnesses today.  
509 I hope we can talk about facts and why this is necessary and  
510 why it is working, and I yield back.

511         [The prepared statement of Ms. DeGette follows:]

512 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
513           Mr. {Stearns.} I thank the Ranking Member, and let me  
514 open up by saying I ask unanimous consent that the contents  
515 of the document binder be introduced into the record subject  
516 to any necessary redactions by the staff.

517           Without objection, the documents will be entered into  
518 the record.

519           [The information follows:]

520 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
521           Mr. {Stearns.} And let me address the two of you before  
522 we start your opening statement. You are aware that the  
523 committee is holding an investigative hearing and when doing  
524 so has had the practice of taking testimony under oath. Do  
525 you have any objection to testifying under oath?

526           Okay. The Chair also advises both of you that under the  
527 rules of the House and the rules of the committee you are  
528 entitled to be advised by counsel. Do you desire to be  
529 advised by counsel during your testimony today?

530           Okay.

531           [Witnesses sworn]

532           Mr. {Stearns.} You are now under oath and subject to  
533 the penalties set forth in Title XVIII, Section 1001, of the  
534 United States Code. If you would be so kind now as to give  
535 us, each of you, your 5-minute summary of your opening  
536 statement.

537           Thank you. Mr. Larsen.

|  
538 ^TESTIMONY OF STEVE LARSEN, DEPUTY ADMINISTRATOR AND  
539 DIRECTOR, CENTER FOR CONSUMER INFORMATION AND INSURANCE  
540 OVERSIGHT, CENTERS FOR MEDICARE AND MEDICAID SERVICES,  
541 DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND JAY ANGOFF,  
542 SENIOR ADVISOR, OFFICE OF THE SECRETARY, DEPARTMENT OF HEALTH  
543 AND HUMAN SERVICES

|  
544 ^TESTIMONY OF STEVE LARSEN

545 } Mr. {Larsen.} Mr. Chairman--

546 Mr. {Stearns.} I think you need to bring the mike a  
547 little closer.

548 Mr. {Larsen.} Can you hear me now?

549 Mr. {Stearns.} We can hear you good. Thank you.

550 Mr. {Larsen.} Okay.

551 Mr. {Stearns.} Thank you, Mr. Larsen.

552 Mr. {Larsen.} My full testimony has been submitted for  
553 the record. I serve as Director of the Center for Consumer  
554 Information and Insurance Oversight within CMS. Since taking  
555 on this role I have been involved in implementing many of the  
556 provisions of the Affordable Care Act, including overseeing  
557 private health insurance reforms, establishing the health  
558 insurance exchanges, and ensuring that consumers have access

559 to information about their rights and coverage options.

560           Prior to becoming the Director of CCIIO I served as the  
561 Director of the Office of Oversight within CCIIO, which works  
562 with the States to implement the new insurance market rules,  
563 including the new restrictions on annual dollar limits on  
564 health insurance benefits.

565           As Director of CCIIO I am committed to improving the  
566 health insurance system so that it works for consumers now  
567 and in 2014, when consumers will have more quality health  
568 care options. I am working to make sure that Americans who  
569 have insurance today can keep that coverage as we transition  
570 to the improved system in 2014.

571           As part of improving the current health insurance system  
572 to Affordable Care Act ensures that consumers are provided  
573 meaningful and reliable coverage for their premium dollars by  
574 phasing in restrictions on annual limits and insurance  
575 policies between now and 2014. This is one of the subjects  
576 that you have asked me to discuss today.

577           Right now over 160 million Americans get their health  
578 insurance through an employer, however, not all coverage  
579 offered by employers is the same. A very small percentage of  
580 employees are offered policies with low annual limits, caps  
581 on the amounts of benefits that are provided under the policy  
582 in a year. Often these policies are offered by employers who

583 hire lower-wage, part-time, or seasonal workers.

584         While having such limited coverage may be better than no  
585 coverage at all, this coverage unfortunately can fail those  
586 that need it most. These policies can have high deductibles  
587 and annual dollar caps as low as \$2,500. Some are better,  
588 with \$5,000 or even \$25,000 in coverage, but in the case of a  
589 serious illness or accident, the coverage can be inadequate.

590         In 2014, consumers will be able to purchase fuller  
591 health insurance coverage in State-based exchanges,  
592 competitive marketplaces, where consumers and small  
593 businesses can shop for private coverage and will have the  
594 market power similar to large employers. Small businesses  
595 with fewer than 25 employees will be eligible for tax credits  
596 to help pay for their employees' coverage, and small  
597 businesses with up to 100 employees in a State will be able  
598 to join the shop exchanges.

599         But in the time between now and 2014, we need to  
600 maintain the coverage that employees have until better  
601 options are available for them. For policies with low annual  
602 limits, immediate compliance with the new Affordable Care Act  
603 protections that restrict annual limits could cause  
604 disruption of this coverage.

605         The Affordable Care Act directs the Secretary to  
606 implement the restrictions on annual limits in a manner that

607 ensures continued access to coverage. This is accomplished  
608 by phasing in the annual restrictions for most policies and  
609 for this year we established a waiver process for the small  
610 percentage of policies that are substantially below the  
611 restricted annual limits set in the regulation.

612         These waivers only apply to this single provision of the  
613 ACA. Insurance companies and employers that receive waivers  
614 must comply with all other parts of the Affordable Care Act.  
615 Our goal has been to implement the law but to do so in a  
616 manner consistent with the statute and in a way that  
617 preserves employees' coverage options until 2014.

618         All employers and insurers that offer limited benefit  
619 plans may apply for a waiver if they demonstrate that there  
620 will be a significant increase in premiums or a significant  
621 decrease in access to coverage without the waiver. Applying  
622 for a waiver is simple, a basic process that CCIIO clearly  
623 published on our website. We administer the process fairly  
624 without regard to the type of the applicant or size of  
625 business. We published our standards for reviewing  
626 applications in the regulations implementing the law and  
627 again in the bulletins implementing the regulations.

628         The vast majority of waivers were granted to health  
629 plans that are employer based, more than 95 percent. Of the  
630 waivers approved, 47 percent were to self-insured employer

631 plans, 26 to HRAs, and 21 percent to Taft-Hartley plans,  
632 which are multi-employer plans governed by collective  
633 bargaining agreements, and 3 percent to issuers, insurance  
634 companies who provide these policies.

635         The limited benefit plans for which waivers are allowed  
636 cover an extremely small portion of people who have employer-  
637 sponsored health plans. Since setting up the waiver program  
638 CCIIO has granted waivers to plans covering approximately 2.4  
639 million people out of the 150 million or so who have  
640 employer-sponsored health coverage. This is less than 2  
641 percent of all covered people in the private insurance  
642 market.

643         The vast majority of employers who applied for a waiver  
644 reacted to the application process positively. We have been  
645 open to feedback from applicants, and based on their input we  
646 improve the application process so that it is timely and  
647 responsive to their needs. We view our work as a partnership  
648 between the Federal Government, States, employers, and  
649 consumers who are constantly striving to meet--and we are  
650 constantly striving to meet our stakeholders' needs.

651         As we work to 2014, we are implementing the ACA  
652 carefully and responsibly so that coverage is maintained and  
653 the market is not disrupted.

654         Thank you for the privilege of appearing before you, and

655 I would be happy to answer any questions.

656 [The prepared statement of Mr. Larsen follows:]

657 \*\*\*\*\* INSERT 1 \*\*\*\*\*

658 | Mr. {Stearns.} Thank you, Mr. Larsen. Mr. Angoff.

|  
659 ^TESTIMONY OF JAY ANGOFF

660 } Mr. {Angoff.} Mr. Chairman, Madam Ranking Member--

661 Mr. {Stearns.} I think you have to pull it a little

662 closer, and you got the mike on. Right?

663 Mr. {Angoff.} Yes, sir.

664 Mr. {Stearns.} Okay.

665 Mr. {Angoff.} Yes, sir.

666 Mr. {Stearns.} Okay. There you go.

667 Mr. {Angoff.} Mr. Chairman, Madam Ranking Member,

668 members of the committee, I appreciate the opportunity to

669 testify here today to discuss the Department of Health and

670 Human Services work to implement the Affordable Care Act.

671 I currently serve as Senior Advisor to HHS Secretary

672 Kathleen Sebelius. I also served as the Director of the

673 Office of Consumer Information and Insurance Oversight, known

674 as OCCIIIO, during its 9 months as an independent division of

675 HHS until its recent merger into the Centers for Medicare and

676 Medicaid Services or CMS.

677 OCCIIIO's accomplishments during that period include the

678 following. During its first 3 months the establishment of

679 two major programs, the Pre-Existing Condition Insurance Plan

680 and the Early Retiree Reinsurance Program, and the

681 development and implementation of our new website,  
682 healthcare.gov. During its first 6 months the promulgation  
683 of regulations implementing the insurance market reforms of  
684 the Affordable Care Act. Among other things those rules now  
685 enable young adults to stay on their parents' policies until  
686 age 26, they prohibit insurers from discriminating against  
687 those under 19 with pre-existing conditions or from canceling  
688 coverage, and they eliminate lifetime limits on coverage.

689         During its first 7 months we implemented three major  
690 grant programs to States, rate review grants, which are  
691 enabling States to establish or strengthen their capacity to  
692 review and where appropriate to disapprove proposed health  
693 insurance rate increases, exchange planning grants, which are  
694 enabling States to begin the work necessary for establishing  
695 their exchanges, and consumer assistance grants, which are  
696 enabling States to develop or strengthen existing programs  
697 enabling consumers to obtain insurance and to more  
698 effectively deal with their insurance companies.

699         By the end of 2010, the promulgation of the medical loss  
700 ratio rule and the rate review rule. Under our medical loss  
701 ratio rule insurers in the individual and small group markets  
702 must spend at least 80 cents of the premium dollar on health  
703 care costs and quality improvement activities and no more  
704 than 20 cents of the premium dollar on administrative

705 expenses. Insurers that don't meet this standard must either  
706 reduce their premiums or issue rebates to their  
707 policyholders.

708 Under the rate review rule insurers must publicly  
709 justify proposed increases exceeding 10 percent, which are  
710 then reviewed for reasonableness by the State, or if the  
711 State does not review rates, by HHS.

712 These reforms, Mr. Chairman, are already having a  
713 positive effect in the marketplace. For example, the Trade  
714 Press is now reporting that as a result of the medical loss  
715 ratio rule, insurance companies are streamlining their  
716 expense structures, moderating their increases, and improving  
717 their benefit packages. And more than 1.2 million adults can  
718 now remain on their parents' health insurance plans because  
719 of our dependent coverage until 26 rule, part of what we call  
720 the Patients' Bill of Rights.

721 Most importantly, individuals are being helped. People  
722 like Kayla Holmstrom, who was in a motorcycle accident when  
723 she was 9 and has a chronic bone infection but who is  
724 studying to become a nurse at South Dakota State University  
725 and can now stay on her parents' policy until she is 26. And  
726 people like James Howard from Katy, Texas, who has brain  
727 cancer and was cancelled by his insurance company but was  
728 able to get coverage through the PCIP Program that may well

729 have saved his life.

730           While the American Health System has always set examples  
731 of shining successes and good care if you can get it, the  
732 system has failed other citizens for too long. People with  
733 pre-existing conditions have been locked out of coverage by  
734 insurance companies. After long careers we have told  
735 Americans to keep working until they reach the age of 65  
736 because without a job as a practical matter they can't get  
737 health insurance because insurance companies surcharge them  
738 both based on their age and based on health status. We have  
739 allowed insurance companies to select out risks and to  
740 segment the market, to cherry pick the healthy and to exclude  
741 the less healthy.

742           The Affordable Care Act, Mr. Chairman, is changing this.  
743 It is building a more equitable health care system which  
744 empowers consumers, establishes new consumer protections  
745 under the law, and gives consumers new information so they  
746 can make the best choices for themselves and their families.  
747 It is putting consumers back in control of their health care  
748 coverage by giving them an unprecedented amount of clear  
749 information on the health care market, protections that  
750 bolster the rights of consumers in dealing with insurance  
751 companies, and an innovative new marketplace.

752           Most importantly, beginning in 2014, the Affordable Care

753 Act will allow individuals, families, and small business  
754 owners to pull their purchasing power through new State-based  
755 exchanges in which insurers will compete based on price and  
756 quality, and people will be able to make apples-to-apples  
757 comparisons.

758 In conclusion, Mr. Chairman, I have ever confidence that  
759 the new Center for Consumer Information and Insurance  
760 Oversight within CMS will continue the vital work of the  
761 Office of Consumer Information and Insurance Oversight, and I  
762 look forward to the results it will produce. Thank you for  
763 the opportunity to appear before you today, and I would be  
764 happy to answer any questions you or the members of the  
765 committee may have.

766 [The prepared statement of Mr. Angoff follows:]

767 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
768 Mr. {Stearns.} I thank you, and I thank both of you for  
769 opening statement. I will open with my series of questions.

770 The Ranking Member indicated the efficiency of the Obama  
771 Care and how the people who got the waivers sent thank you  
772 letters back. I would submit that is like saying to a person  
773 who won the lottery, are you happy with the efficiency of the  
774 lottery that you won? They would explicitly say, yes, and be  
775 glad to send a lot of thank you letters back.

776 But having said that, Mr. Larsen, I just looked through  
777 your resume, and I noticed that Governor O'Malley appointed  
778 you as a member of the Maryland Health Service Cost Review  
779 Commission that actually sets the rates in the State. Is  
780 that true?

781 Mr. {Larsen.} That is correct.

782 Mr. {Stearns.} Are you still on that board?

783 Mr. {Larsen.} No, I am not.

784 Mr. {Stearns.} When did you leave that board?

785 Mr. {Larsen.} When I started with the Federal  
786 Government.

787 Mr. {Stearns.} Okay. So I was a little concerned. I  
788 wasn't sure--

789 Mr. {Larsen.} No, I am not.

790 Mr. {Stearns.} Okay. Okay. Let me move to this, Mr.

791 Larsen, to this area of waivers. When we ask questions, we  
792 each have 5 minutes, so if you could just answer yes and no,  
793 and if we reach an impasse here, I will certainly give you a  
794 little time, but I am hopeful that you can answer most of the  
795 questions yes or no.

796 I have been informed that you folks are considering or  
797 have given a waiver to the entire State of Florida. Is this  
798 true?

799 Mr. {Larsen.} We established a process that permits  
800 States--

801 Mr. {Stearns.} No, not--

802 Mr. {Larsen.} --to apply.

803 Mr. {Stearns.} Has the State of Florida received a  
804 waiver? Yes or no?

805 Mr. {Larsen.} Yes.

806 Mr. {Stearns.} Okay.

807 Mr. {Larsen.} Well, may I clarify?

808 Mr. {Stearns.} Oh, sure.

809 Mr. {Larsen.} The process that we set up for the States  
810 essentially allows the States to apply on behalf of--

811 Mr. {Stearns.} I understand.

812 Mr. {Larsen.} --the issuer.

813 Mr. {Stearns.} Just in curiosity, did New York State  
814 get a waiver, the entire State?

815 Mr. {Larsen.} Not to my knowledge.

816 Mr. {Stearns.} So only Florida. Can you list to me all  
817 the States that got a complete waiver?

818 Mr. {Larsen.} Yes. I can confirm, I think it is Ohio,  
819 Tennessee, Florida, and there may be one more.

820 Mr. {Stearns.} And New York City being considered? New  
821 York?

822 Mr. {Larsen.} I don't believe New York applied, but I  
823 can double check.

824 Mr. {Stearns.} Can I ask you this question? Has New  
825 York applied?

826 Mr. {Larsen.} The State of New York?

827 Mr. {Stearns.} State of New York. Our understanding  
828 they have applied.

829 Mr. {Larsen.} Oh, they have applied.

830 Mr. {Stearns.} Okay. New York--

831 Mr. {Larsen.} But we haven't made a decision.

832 Mr. {Stearns.} Oh. I understand, but New York has  
833 applied. Okay. So the question is, obviously, why would  
834 Florida need a waiver, why would New York need a waiver, and  
835 all these other States you are giving complete current blots  
836 for these States? You know, I think for many of us under the  
837 10th Amendment we believe the States should be able to come  
838 up with their own health care and perhaps handle their health

839 insurance market better than the government.

840           Simply tell me why would the State of Florida, perhaps  
841 New York, and why are these people, why do you think Florida  
842 needs a waiver, the entire State?

843           Mr. {Larsen.} Sure. Sure. So the waiver program is  
844 set up to ensure that that small percentage of employees  
845 under these small benefit policies can continue coverage. So  
846 in a small number of States there are State programs that  
847 authorize or require these limited-benefit policies. And so  
848 we made the determination to allow the States to apply on  
849 behalf of the issuers in their State.

850           Mr. {Stearns.} Now, the big question is, okay, all  
851 these States, you are 1 year into this, and you are  
852 recognizing large States and small States, you are giving  
853 waivers, what happens in 2014? In fact, these waivers are  
854 only for 1 year, aren't they?

855           Mr. {Larsen.} That is correct.

856           Mr. {Stearns.} Okay. So then all these States will  
857 have to come back in the year 2013?

858           Mr. {Larsen.} We made the decision for a 1-year waiver  
859 in order to gather better information about these types of  
860 policies--

861           Mr. {Stearns.} If they needed a waiver--

862           Mr. {Larsen.} --and we will determine--

863 Mr. {Stearns.} --in 2011, won't they need a waiver in  
864 2012, and '13, so you will go back and give a waiver--

865 Mr. {Larsen.} Well--

866 Mr. {Stearns.} --presumably again?

867 Mr. {Larsen.} --I was trying to answer. We haven't  
868 made a determination about--

869 Mr. {Stearns.} Okay.

870 Mr. {Larsen.} --what happens. We are--these policies  
871 and these waiver represent a glide path, if you will, a  
872 transition to 2014, so we set them up to do the first year,  
873 to gather data, and then determine what the next steps would  
874 be between now and 2014.

875 Mr. {Stearns.} Would it be fair to say then the year  
876 2014, none of these people will get waivers, or will you  
877 consider giving waivers ever after the exchange is in place?

878 Mr. {Larsen.} In 2014, consumers will have access to  
879 full coverage, not the types of limited-benefit policies that  
880 they have today, so in 2014, there won't be limited-benefit  
881 policies to be waived from. Consumers will have access to  
882 the full range of benefits.

883 Mr. {Stearns.} I guess the basic question was  
884 McDonald's is a large corporation that got a waiver. Is that  
885 true?

886 Mr. {Larsen.} The carrier that provides coverage to

887 McDonald's, yes.

888 Mr. {Stearns.} Got a waiver. And didn't Waffle House  
889 get a waiver? I don't know. I think the staff is saying  
890 yes.

891 Mr. {Larsen.} Okay.

892 Mr. {Stearns.} So I assume--I would think you should  
893 know these.

894 Mr. {Larsen.} Well, I haven't memorized the list of--

895 Mr. {Stearns.} Well, some of the big ones like  
896 McDonald's and so forth I would think you would know.

897 Mr. {Larsen.} Well, I do know about McDonald's.

898 Mr. {Stearns.} Well, let me ask you. Did Denny's get  
899 one?

900 Mr. {Larsen.} I would have to look at the list.

901 Mr. {Stearns.} Okay. How many private corporations, do  
902 you know, just off hand? A dozen or 100 or--

903 Mr. {Larsen.} Well--

904 Mr. {Stearns.} --because you got 915 that got waivers,  
905 and you said you denied 61, so out of that 915 you gave me a  
906 percent. How--so I guess some of the large corporations got  
907 these waivers.

908 Mr. {Larsen.} When we think about the waivers, we think  
909 about the type of employers and issuers that have applied.  
910 So self-insured employers, for example--

911 Mr. {Stearns.} Okay.

912 Mr. {Larsen.} --represent 49 percent of the applicants,  
913 we have--

914 Mr. {Stearns.} I can't miss this question. When in the  
915 Health Care Bill does the word waiver--can you give me the  
916 specific line where it says waivers will be granted to health  
917 care provides in the Health Care Bill? Where do you get  
918 your--

919 Mr. {Larsen.} Sure. The annual limits provision of the  
920 Affordable Care Act specifically directs the Secretary to  
921 implement this provision in a way that ensures--

922 Mr. {Stearns.} But the word waiver is not in there.

923 Mr. {Larsen.} I don't know whether the word--

924 Mr. {Stearns.} We couldn't find it anywhere. So you  
925 are saying your interpretation is implying that your  
926 definition of waiver is through that interpretation of the  
927 language?

928 Mr. {Larsen.} To comply with the requirements of the  
929 ACA.

930 Mr. {Stearns.} Okay. My time is expired.

931 The Ranking Member, Ms. DeGette.

932 Ms. {DeGette.} Thank you very much. Mr. Larsen, when  
933 you say that a waiver was given to Florida, that doesn't mean  
934 every insured person in Florida was given a waiver. Correct?

935 Mr. {Larsen.} That is correct.

936 Ms. {DeGette.} I mean, basically, what it is is waivers  
937 were given to some States that had State laws that would  
938 violate the new federal law, and they were given specifically  
939 for these individual market plans within those States.

940 Correct?

941 Mr. {Larsen.} Sure. States that have--yes.

942 Ms. {DeGette.} So how many States did that involve?

943 Mr. {Larsen.} I think we have approved four States to  
944 date.

945 Ms. {DeGette.} Four States. And those States were  
946 approved based on their State laws that might have affected  
947 those individual plan markets. Correct?

948 Mr. {Larsen.} Even the applicants in the States had to  
949 still satisfy the regulatory standard for getting a waiver.

950 Ms. {DeGette.} So there was no political--someone from  
951 the White House didn't call you folks up and say, you know,  
952 approve these States because it is going to be important in  
953 the election next year.

954 Mr. {Larsen.} No, and we applied the standards  
955 consistently across all applicants--

956 Ms. {DeGette.} Thank you.

957 Mr. {Larsen.} --whether it was State applicant or--

958 Ms. {DeGette.} Now, Mr. Larsen, some have alleged that

959 the process through which waivers to annual limits are  
960 granted lacks transparency, so I want you to walk us through  
961 the process by which your agency makes waiver decisions. Can  
962 you briefly describe the factors that you take into account  
963 when evaluating waiver requests?

964 Mr. {Larsen.} Yes, and the standards were set out in  
965 the regulation that we issued subsequent to the passage of  
966 the ACA. The standard--

967 Ms. {DeGette.} Can you briefly describe those  
968 standards?

969 Mr. {Larsen.} Sure. So the regulatory standard  
970 requires that an applicant show that there either be a  
971 significant increase in premiums or significant decrease in  
972 access to care. So that is the regulatory standard. We then  
973 issued subsequent guidance, I believe in November, that  
974 articulated factors that we use in evaluating those two  
975 standards, which include whether the compliance with the  
976 restrictions on the annual limits would result in a decrease  
977 in access to benefits, looking at the policies' current  
978 annual limits. If the annual limits are particularly low,  
979 there will be more of an impact, looking at the change in  
980 percent of--the change in premiums in terms of percentage,  
981 and then the change in premiums in terms of absolute dollar  
982 values, and then the number and types of benefits that would

983 be impacted by application of the law.

984 Ms. {DeGette.} And is it my--is my understanding  
985 accurate that CCIIO has reached out and continues to reach  
986 out to stakeholders to make sure that you are addressing any  
987 concerns that they may have regarding the waiver process?

988 Mr. {Larsen.} We do.

989 Ms. {DeGette.} And in which way?

990 Mr. {Larsen.} Well, we have constant interaction with  
991 the applicants as they file, and if they have issues,  
992 hopefully they are brought to my attention, and we seek to  
993 resolve them, and I think as was mentioned earlier we have  
994 what I believe is a very positive feedback that we have  
995 received from applicants.

996 Ms. {DeGette.} Now, as you describe, you put out an  
997 interim final rule and guidance on the waiver process, and  
998 about 90 percent of the applicants for waivers have been  
999 approved, so that would seem to me that the process is  
1000 working because people understand what the criteria are, and  
1001 they understand how to go through the process.

1002 But there has been one concern that has been raised, and  
1003 not by this committee but by Chairman Issa's committee, the  
1004 Oversight Committee, they said that you had not adequately  
1005 defined some of the criteria you use in making decisions.  
1006 For example, he said you hadn't published a clear bright line

1007 numerical definition of a large premium increase.

1008           So I guess my question is is it accurate that you have  
1009 not published a strict numerical definition of what  
1010 constitutes a large or significant premium price increase?

1011           Mr. {Larsen.} That is right. We do not have--

1012           Ms. {DeGette.} And can you tell me why not?

1013           Mr. {Larsen.} Sure. We took the view that applying an  
1014 absolute number would not adequately allow us to fairly  
1015 process the applications as they came in because the  
1016 applications in terms of the number of employees affected, in  
1017 terms of their baseline premiums, they all--they vary  
1018 significantly. So, for example, you could have a policy that  
1019 had a very high premium but a low percent impact but actually  
1020 still has a significant impact on people that pay the  
1021 premiums.

1022           So picking an absolute number we didn't think would be  
1023 the best approach.

1024           Ms. {DeGette.} But just because you don't have an  
1025 absolute number doesn't mean you don't have criteria.

1026 Correct?

1027           Mr. {Larsen.} No. We do have criteria.

1028           Ms. {DeGette.} Thank you very much. I yield back.

1029           Mr. {Stearns.} The gentlelady yields back. Our next--  
1030 Dr. Burgess.

1031 Dr. {Burgess.} Thank you, Mr. Chairman, and Mr. Angoff,  
1032 it has already been pointed out we have 5-minute increments  
1033 in which our lives are lived, so I am going to ask you a  
1034 series of questions, and I am going to ask us to go fairly  
1035 quickly, so if we can, yes or no answers.

1036 When you came and visited me in the--my office I believe  
1037 it was November 30, I had some questions then you were kind  
1038 enough to answer. We had the luxury of additional time, but  
1039 today we need to go fairly quickly, so I am going to list a  
1040 number of functions that it is my understanding were under  
1041 your--when you were the head of OCCIIIO, the previous agency,  
1042 that they were under your purview. So please let me know as  
1043 I read through this list, please acknowledge that they were  
1044 under your jurisdiction, or if they were not, let me know  
1045 that as well.

1046 So children with pre-existing conditions?

1047 Mr. {Angoff.} Yes.

1048 Dr. {Burgess.} Healthcare.gov?

1049 Mr. {Angoff.} Yes.

1050 Dr. {Burgess.} Rescissions.

1051 Mr. {Angoff.} Yes.

1052 Dr. {Burgess.} No rescissions.

1053 Mr. {Angoff.} Right. The rule prohibiting rescissions.

1054 Dr. {Burgess.} The co-op program?

- 1055 Mr. {Angoff.} Yes.
- 1056 Dr. {Burgess.} Federal high risk pool?
- 1057 Mr. {Angoff.} Yes, which is the same as the pre-
- 1058 existing condition insurance plan.
- 1059 Dr. {Burgess.} Waivers for insurance plans?
- 1060 Mr. {Angoff.} Yes.
- 1061 Dr. {Burgess.} Grandfathered regulations?
- 1062 Mr. {Angoff.} Yes.
- 1063 Dr. {Burgess.} Early retiree programs?
- 1064 Mr. {Angoff.} Yes.
- 1065 Dr. {Burgess.} Annual limits?
- 1066 Mr. {Angoff.} Yes.
- 1067 Dr. {Burgess.} Waivers for businesses?
- 1068 Mr. {Angoff.} Yes.
- 1069 Dr. {Burgess.} State exchanges?
- 1070 Mr. {Angoff.} Yes.
- 1071 Dr. {Burgess.} Coverage for children under parents'
- 1072 plans?
- 1073 Mr. {Angoff.} Yes.
- 1074 Dr. {Burgess.} Page 26.
- 1075 Mr. {Angoff.} Right.
- 1076 Dr. {Burgess.} And the medical loss ratio?
- 1077 Mr. {Angoff.} Yes, sir.
- 1078 Dr. {Burgess.} So all these things are functions for

1079 which you were responsible for overseeing and implementing?

1080 Mr. {Angoff.} Correct.

1081 Dr. {Burgess.} Can you help us--I have got a copy of  
1082 the Patient Protection Affordable Care Act here. Can you  
1083 direct us to the section of PPACA that authorizes OCCIIIO to  
1084 speak in acronyms for just a moment?

1085 Mr. {Angoff.} There is--the Secretary has discretion to  
1086 manage and operate her office, but to answer your question,  
1087 Congressman, there is no particular specific authorization in  
1088 the bill that says there shall be created an Office of  
1089 Consumer Information and Insurance Oversight. That is part  
1090 of the Secretary's discretion.

1091 Dr. {Burgess.} So there is no authorization statute in  
1092 the law that was signed by the President on March 23 of last  
1093 year?

1094 Mr. {Angoff.} Well, the functions are authorized. The  
1095 specific office, there is no section of the bill which--

1096 Dr. {Burgess.} So what about CCIIO, the follow-on  
1097 organization? Is there a section in here that I have missed  
1098 that authorizes the follow-on organization? CCIIO, whatever  
1099 exists today?

1100 Mr. {Angoff.} There is no section specifying the name  
1101 OCCIIIO or CCIIO.

1102 Dr. {Burgess.} Neither branch of the federal agency was

1103 specifically authorized under the legislation.

1104 Mr. {Angoff.} But the functions that those agencies  
1105 carry out are authorized in the bill.

1106 Dr. {Burgess.} So when in the timeline were you hired  
1107 by the Administration for the purposes of creating and  
1108 running OCCIIIO?

1109 Mr. {Angoff.} I was hired, I believe my first day on  
1110 the job was February 16, and--

1111 Dr. {Burgess.} February 16 of 2010?

1112 Mr. {Angoff.} February 16 of 2010. The--

1113 Dr. {Burgess.} Happy anniversary then.

1114 Mr. {Angoff.} Oh, thank you very much.

1115 Dr. {Burgess.} And I have the federal register from  
1116 April 19, 2010--

1117 Mr. {Angoff.} Right.

1118 Dr. {Burgess.} --which talks about the Secretary  
1119 organizing your agency.

1120 Mr. {Angoff.} Yes. Before you wished me happy  
1121 anniversary I was about to say that the office was authorized  
1122 on April 19.

1123 Dr. {Burgess.} So March 23, signed into law, April 19,  
1124 federal register, within a month of passage the  
1125 Administration realized that they needed and the legislation  
1126 lacked and they were able to divert funds to hire you, create

1127 OCCIIIO, and do this whole creation basically out of thin air,  
1128 out of whole cloth because it wasn't authorized in statute.

1129 Mr. {Angoff.} Well, obviously I wouldn't agree with  
1130 that characterization.

1131 Dr. {Burgess.} Well, okay. Well, what about--this is  
1132 pretty simple then. Where did the money come from? Where  
1133 was the funding for OCCIIIO?

1134 Mr. {Angoff.} The money came from the \$1 billion that  
1135 was appropriated as part of the ACA and then in addition,  
1136 there are certain statutes, certain provisions of the  
1137 Affordable Care Act which carried with them funding to carry  
1138 out those particular provisions.

1139 Dr. {Burgess.} So would a correct characterization be  
1140 you were able to skim money off say some areas like the money  
1141 for the high risk pools to fund your organization?

1142 Mr. {Angoff.} No. That is not a characterization, and  
1143 that is not an accurate characterization because--for this  
1144 reason.

1145 Dr. {Burgess.} Perhaps you would be able to provide to  
1146 the committee a detailed budget of where the money came from,  
1147 the million dollar initial authorization, but there were  
1148 other agencies making draws on that as well. Presumably you  
1149 had at the end of the day your agency merged into another  
1150 one, how many employees were working for you?

1151 Mr. {Angoff.} Two hundred and fifty-two.

1152 Dr. {Burgess.} All right. That is not inexpensive to  
1153 hire 252 people in Washington or Maryland.

1154 Mr. {Angoff.} No. If I could just go back, though,  
1155 Congressman, just to one point because I think it is very  
1156 important to realize that the Act has certain sections which  
1157 carry with it specific appropriations for those sections.

1158 Dr. {Burgess.} Let me just ask you very briefly. Do  
1159 you have and can you produce for the committee a delegation  
1160 of authority from the Secretary of HHS that we can use to  
1161 better understand what your services were at OCCIIIO?

1162 Mr. {Angoff.} Yes. There was such a delegation, and I  
1163 am happy to produce it.

1164 Dr. {Burgess.} I yield back. Thank you, Mr. Chairman.

1165 Mr. {Stearns.} Thank the gentleman, and the gentleman  
1166 from Michigan, Mr. Dingell, is recognized for 5 minutes.

1167 Mr. {Dingell.} Please respond yes or no to this--these  
1168 questions if you can, and if the answer is no, would you also  
1169 please submit a detailed explanation for the record?

1170 One, the underlying goal of the Affordable Care Act was  
1171 to provide affordable quality health care for all. Do you  
1172 believe the limited benefits plans provide that quality and  
1173 that they provide comprehensive care to consumers? Yes or  
1174 no?

1175 Mr. {Angoff.} No.

1176 Mr. {Dingell.} Okay. Next, we know that millions of  
1177 Americans do rely on limited-benefit plans. Do you believe  
1178 consumers have been adequately informed about the benefit  
1179 limits under these plans? Yes or no?

1180 Mr. {Angoff.} No.

1181 Mr. {Dingell.} The waivers are for how long? Only for  
1182 1 year. Right?

1183 Mr. {Angoff.} Yes, sir.

1184 Mr. {Dingell.} And they will be reviewed at the end of  
1185 that year?

1186 Mr. {Angoff.} Yes, sir.

1187 Mr. {Dingell.} So you will have the chance to reissue  
1188 the waiver or to deny the waiver at that particular time.

1189 Mr. {Angoff.} That is correct.

1190 Mr. {Dingell.} This is a transitional step, is it not?

1191 Mr. {Angoff.} Yes, it is.

1192 Mr. {Dingell.} And the purpose is to see to it that you  
1193 don't take away from the recipients of the benefits under  
1194 these plans, the benefits that they are receiving while you  
1195 set up the larger plan as required by the statute. Is that  
1196 right?

1197 Mr. {Angoff.} That is exactly right.

1198 Mr. {Dingell.} Now, under ACA the Secretary has

1199 authority to determine what is restricted annual limits, and  
1200 the responsibility to also protect consumer access to  
1201 essential health benefits. We know that we allow an  
1202 appropriate transition time. Some States, employers, and  
1203 insurers would be unable to comply with the no annual limits  
1204 provision and without an adverse impact on coverage or  
1205 premiums. Is that correct?

1206 Mr. {Angoff.} Yes, sir.

1207 Mr. {Dingell.} Do you believe that waivers are  
1208 necessary to provide an uninterrupted, affordable transition  
1209 coverage to individuals?

1210 Mr. {Angoff.} I do.

1211 Mr. {Dingell.} And you will be reviewing these matters  
1212 as we move towards 2014, and the full statute goes into  
1213 effect.

1214 Mr. {Angoff.} That is correct.

1215 Mr. {Dingell.} Is that right? Do you believe that the  
1216 necessary guidance and assistance from the CCIIO has been  
1217 readily available and accessible to assist potential  
1218 applicants in completing the waiver application process? Yes  
1219 or no?

1220 Mr. {Angoff.} Yes.

1221 Mr. {Dingell.} Do you believe that CCIIO has dedicated  
1222 an adequate amount of staff time to be responsive to

1223 potential applicants regarding the waiver application  
1224 process? Yes or no?

1225 Mr. {Angoff.} I do.

1226 Mr. {Dingell.} And you have put considerable effort  
1227 into seeing to it that those resources are available for that  
1228 purpose.

1229 Mr. {Angoff.} Yes, we have.

1230 Mr. {Dingell.} Do you believe that the waiver process  
1231 has provided an ample and an adequate transition time for  
1232 employers and employees to comply with the Affordable Care  
1233 Act?

1234 Mr. {Angoff.} Yes, sir.

1235 Mr. {Dingell.} And that, of course, is, again, one of  
1236 the purposes of the waiver provisions.

1237 Mr. {Angoff.} Yes, it is.

1238 Mr. {Dingell.} Waivers are being granted. Is that  
1239 right?

1240 Mr. {Angoff.} Yes, it is.

1241 Mr. {Dingell.} Now, do you believe that the enrollees  
1242 will receive greater information about the limited benefits  
1243 in their health plan under the waiver process?

1244 Mr. {Angoff.} I do.

1245 Mr. {Dingell.} Now, let us try and summarize. The--we  
1246 are moving towards the establishment of the national plan

1247 which takes place in about 2014. It is a very complicated,  
1248 this is going to be a very complicated exercise and a  
1249 complicated plan. You will be reviewing these waivers  
1250 periodically to see to it that they further your purposes of  
1251 and the purposes of the statute in getting us where we can  
1252 have a good workable national plan which provides to an  
1253 orderly transition to that. Is that correct?

1254 Mr. {Angoff.} That is correct.

1255 Mr. {Dingell.} Now, if you did not grant these waivers,  
1256 what would be the practical result? As I read it, you would  
1257 be kicking all these people off their plans, they would  
1258 receive no benefits, and so we would have a very large  
1259 problem of a lot of people not receiving any coverage at all.  
1260 Is that correct?

1261 Mr. {Angoff.} Yes, it is.

1262 Mr. {Dingell.} The plans are--a lot of these plans are  
1263 subject to criticism on the adequacy of the benefits  
1264 provided, but nonetheless, that is better than having no  
1265 plans to cover these people, which could happen if you did  
1266 not give the waiver. Is that correct?

1267 Mr. {Angoff.} That is true.

1268 Mr. {Dingell.} Mr. Chairman, I note that I have 18  
1269 seconds to yield back. Thank you.

1270 Mr. {Stearns.} I thank the gentleman, and next we will

1271 go to Mr. Murphy.

1272           Mr. {Murphy.} Thank you, Mr. Chairman. The Institute  
1273 of Medicine has been asked by HHS to make recommendations on  
1274 the criteria and methods for determining and updating the  
1275 essential health benefits package called for by the  
1276 Affordable Care Act, and you know, Congress did not call for  
1277 definition of medical necessity in the bill. While the House  
1278 bill included a definition, it was not included in the final  
1279 bill as amended.

1280           But as I understand it Health and Human Services has  
1281 asked the Institute of Medicine to review definitions and  
1282 applications of medical necessity, which we didn't call for  
1283 in the Affordable Care Act, and is outside the scope of  
1284 defining essential benefits.

1285           Can you tell me what authority does HHS believe it has  
1286 to include this in the definition of essential health  
1287 benefits?

1288           Mr. {Larsen.} Well, I can try and answer that. I  
1289 apologize. I know that the Institute of Medicine has been  
1290 tasked with helping HHS define what essential benefits are,  
1291 and that will also be supplemented with a study by the  
1292 Department of Labor. I have to confess I am not familiar  
1293 with the medical necessity component of the task that has  
1294 been asked, so I can follow up.

1295           Mr. {Murphy.} Can you do that? I would really  
1296 appreciate if you would follow up. That would be great.  
1297 Thank you.

1298           Mr. {Larsen.} I will do that.

1299           Mr. {Murphy.} Now, I want to ask a little bit more  
1300 about these waivers. One of the waivers from the State of  
1301 Ohio, my neighbor in Pennsylvania, and it is interesting a  
1302 statement from Mary Jo Hudson, who is the Director of the  
1303 Ohio Department of Insurance, was this. She said, ``Not  
1304 allowing a blanket waiver for all companies for basic and  
1305 standard open enrollment in group conversion options would  
1306 lead to an unlevel playing field. Some companies will seek  
1307 waivers while others won't.''

1308           I think that is a good point, but how are you sure you  
1309 haven't created some sort of an unlevel playing field, make  
1310 sure everyone affected by the bill, the annual limits, know  
1311 that they can apply for waiver?

1312           Mr. {Larsen.} Yes, thank you, and I don't think we have  
1313 created unlevel playing field. There are a small number of  
1314 States that through State policy have encouraged or required  
1315 insurance companies to offer these, you know, as we call  
1316 them, mini-med policies, in order to make sure that there is  
1317 a policy available for some people who otherwise couldn't  
1318 afford coverage.

1319           And in establishing the waiver process and particularly  
1320 the State process, we did want to make sure that people who  
1321 have that coverage can--today, can continue that coverage.  
1322 So we set up a process that allows for the States, when there  
1323 is a State policy or law or program that requires carriers or  
1324 establishes a program that offers these types of mini-med  
1325 policies.

1326           Mr. {Murphy.} It still is a situation in question is  
1327 everybody well-informed. Are you comfortable with how people  
1328 are informed that they can apply for waivers, and they  
1329 understand the terms and conditions of--once they can obtain  
1330 a waiver?

1331           Mr. {Larsen.} We are. I mean, again, I think we have  
1332 been very transparent in publicizing this. The States are  
1333 aware of it. We have worked through a number of different  
1334 outside entities and trade groups and the NEIC to make sure  
1335 that the word go out that there was an option to apply for  
1336 these types of waivers.

1337           Mr. {Murphy.} How about a medical loss ratio? A number  
1338 of States have applied for things, Georgia, Iowa, Maine,  
1339 South Carolina, Texas, et cetera, all requesting waivers for  
1340 medical loss ratio. Have any of the States contacted you  
1341 about waivers for the MLR?

1342           Mr. {Larsen.} I would answer that in two ways. Before

1343 the medical loss ratio regulation was issued in December, we  
1344 received a number of letters from States because the statute  
1345 contemplates a State-based waiver process, but we hadn't set  
1346 up the process yet. So we did receive letters from States  
1347 before the regulations were issued.

1348 Since the regulations were issued in December that lay  
1349 out the process for applying, I believe we have received  
1350 three States--

1351 Mr. {Murphy.} Would you let us know all the States that  
1352 have that under--and what standards would a State obtain an  
1353 exemption?

1354 Mr. {Larsen.} Sure. Well, the standards are set out in  
1355 the regulation.

1356 Mr. {Murphy.} Just make sure we know that.

1357 Mr. {Larsen.} Yes.

1358 Mr. {Murphy.} The other thing I want to know is with  
1359 the waivers that are being granted on multiple levels, has  
1360 anyone done an economic or financial analysis of what this  
1361 means in terms of the overall financial stability or  
1362 instability, whatever, of the entire health care package?

1363 Would either of you know what that is?

1364 Mr. {Larsen.} I am not familiar with a study that looks  
1365 at the impact of waivers.

1366 Mr. {Murphy.} The issue being that if someone is

1367 required to participate, then they are waived from that, I  
1368 don't know what this actually means in terms of revenues  
1369 spent, revenues locked in. We are trying to get a handle on  
1370 what all this means and the whole financial analysis of this  
1371 bill and not clear if anybody is doing that analysis.

1372 Mr. {Larsen.} Well, and the transition between now and  
1373 2014, I think these limited waivers are beneficial to all the  
1374 stakeholders, both--either the companies or the issuers or  
1375 the States or the beneficiaries so that they can, you know,  
1376 continue the coverage between now and 2014.

1377 Mr. {Murphy.} Thank you very much.

1378 Mr. {Stearns.} The gentleman yields back the balance of  
1379 his time. Mr. Green is recognized for 5 minutes.

1380 Mr. {Green.} Thank you, Mr. Chairman. Annual limits or  
1381 coverages we understand can be a pretty rotten deal if you  
1382 are really ill for consumers. You pay premiums for many  
1383 years and then all of a sudden you find out that your wife  
1384 has cancer or maybe your child that was just born has some  
1385 terrible illness that you have to have a lot of health care  
1386 for, and your insurance company ends up paying a lot and then  
1387 they end up hitting up against that annual limit and  
1388 sometimes even a lifetime limit.

1389 Unfortunately until health care law was implemented,  
1390 will be implemented in 2014, there are some people who have a

1391 choice between a plan with low annual limits on coverage or  
1392 no coverage at all, and Congress intended to make sure that  
1393 people enrolled in these plans wouldn't see their premiums  
1394 rise dramatically or see their options for coverage disappear  
1395 while employers adjust to new consumer protection rules and  
1396 the full range of health care reforms.

1397 Mr. Larsen, am I correct that the waiver process that we  
1398 are talking about today was envisioned by Congress and put  
1399 into place to help consumers in these low-cost and low-  
1400 benefit plans?

1401 Mr. {Larsen.} That is correct.

1402 Mr. {Green.} It is my understanding that these waivers  
1403 are temporary and that they only last for a year, and they  
1404 won't be available in 2014, or after. Is that correct?

1405 Mr. {Larsen.} That is correct.

1406 Mr. {Green.} Mr. Larsen, what are some of the benefits  
1407 that will be available to low-wage workers once the annual  
1408 limit ban becomes firm in 2014?

1409 Mr. {Larsen.} Well, the entire landscape changes to the  
1410 benefit of the consumer. So they will have access to an  
1411 insurance marketplace, there will be increased competition,  
1412 benefits will be fuller, there will be premium subsidies  
1413 available for individuals who can't afford to purchase  
1414 insurance, but the insurance that they purchase will now have

1415 full coverage and not the restricted limits that  
1416 unfortunately some people had today.

1417 Mr. {Green.} Okay, and the waiver process I know  
1418 benefits businesses, too. Health and Human Services  
1419 implementing the ban on annual limits incrementally, starting  
1420 with the floor of \$750,000 in coverage for central care  
1421 annually and raising that floor gradually until annual limits  
1422 are eventually prohibited. Business and health plans would  
1423 see substantially higher exposure to claims under even this  
1424 incremental approach can apply for short-term waivers.

1425 What percentage of the businesses that have applied for  
1426 these short-term waivers received them?

1427 Mr. {Larsen.} Well, we approve the vast majority of the  
1428 applicants that come in. Some are Taft-Hartley Plan, some  
1429 are self-insured businesses, some are issuers, but overall  
1430 we--I think the approval rate is about 95 percent or so.

1431 Mr. {Green.} That is what our staff has come up with,  
1432 about 90 percent, so, and these are requests from businesses  
1433 who are asking for that short-term waiver so they can grow  
1434 into the health care.

1435 Mr. {Larsen.} That is right.

1436 Mr. {Green.} It seems to me the waiver process  
1437 implemented is just the sort of thoughtful approach that we  
1438 want in a health insurance reform plan. The President

1439 advocated the ban on annual limits is a critical consumer  
1440 protection, and the waiver process allows the Administration  
1441 to implement that protection with due regard to individual  
1442 circumstances and individual particular consumers and  
1443 businesses.

1444         The prohibiting annual limits is important reform that  
1445 results--responds to one of the worst features of our  
1446 insurance market today, and, again, I served 20 years in the  
1447 legislature, and I understand what happens in legislatures  
1448 where you have very low-limit policies because you hope  
1449 sometimes somebody has one, just has a policy.

1450         Annual limits can leave consumers, particularly those  
1451 with expensive and chronic conditions and those experiencing  
1452 catastrophic medical limits, with enormous medical debt and  
1453 without an ability to access the health care. Congress  
1454 included a ban on annual limits in the Reform Bill, but it  
1455 also gave HHS the authority to waive it.

1456         It is my understanding this waiver process was necessary  
1457 to ensure the small number of people in certain low-cost,  
1458 low-benefit plans often called mini-meds, which still have  
1459 access to at least some coverage before health care reform is  
1460 fully implemented. Is that your understanding, Mr. Larsen?

1461         Mr. {Larsen.} That is right.

1462         Mr. {Green.} Since this waiver process does not

1463 represent a flaw in the health care law but rather a  
1464 recognition that flexibility and accommodation of unique  
1465 circumstances, you don't turn around a battleship or an  
1466 aircraft carrier immediately just like you don't turn around  
1467 our health care plan.

1468 Under circumstances would be required we build towards  
1469 full range of consumer protections, and benefits will be  
1470 available to all Americans in 2014. Is that correct?

1471 Mr. {Larsen.} That is correct.

1472 Mr. {Green.} In fact, the waiver process responds to an  
1473 uncommon, relatively uncommon set of circumstances. What  
1474 percentage of the people in private insurance plans, Mr.  
1475 Larsen, are covered by plans that have received a waiver?

1476 Mr. {Larsen.} Well, again, the number is about 2-1/2,  
1477 so less than 2 percent of people that have employer-based  
1478 coverage are in plans that have received a waiver.

1479 Mr. {Green.} So we are addressing this problem, but  
1480 less than 2 percent--

1481 Mr. {Larsen.} That is right.

1482 Mr. {Green.} --have requested or received a waiver.  
1483 Compared to the number of people receiving protection against  
1484 annual limits under the Affordable Care Act, I would call  
1485 that number a very small amount. I wish we didn't have to  
1486 issue any waivers from this important protection, but just

1487 over 1 or 2 percent seems fairly minor.

1488 In addition, the annual limit restrictions are but one  
1489 important part of the series of protections that have been  
1490 implemented since enactment. Young adults can now stay on  
1491 their parents' policies until 26, lifetime limits have been  
1492 eliminated, plans must cover preventative care for free.

1493 Mr. Larsen, are any of these protections or any of those  
1494 protections being waived?

1495 Mr. {Larsen.} No. No, sir.

1496 Mr. {Green.} Okay. So the core protections of the law  
1497 continue to be implemented smoothly with benefits for  
1498 families, employers in this area. Is that correct?

1499 Mr. {Larsen.} That is correct.

1500 Mr. {Green.} Okay. Thank you, Mr. Chairman. I will  
1501 yield back my time.

1502 Mr. {Stearns.} All right. Thank the gentleman. The  
1503 gentlelady, Mrs. Myrick, is recognized for 5 minutes.

1504 Mrs. {Myrick.} Thank you, Mr. Chairman. Thank you both  
1505 for being here.

1506 The center contains the Office of Insurance Programs who  
1507 will administer the temporary high-risk pool program called  
1508 Pre-Existing Condition Insurance Plan. The health care law  
1509 created this program with \$5 billion in funding. Correct? I  
1510 guess these probably go to Mr. Larsen sine you are the head

1511 of that right now. Correct?

1512 Mr. {Larsen.} I can speak somewhat, and Jay can as  
1513 well.

1514 Mrs. {Myrick.} Okay. Well, whoever wants to answer.  
1515 Go ahead. Okay. Is--the \$5 billion is correct. Right?

1516 Mr. {Angoff.} Yes.

1517 Mrs. {Myrick.} And HHS recently announced the  
1518 enrollment in the program. What was the number?

1519 Mr. {Angoff.} Approximately 12,000.

1520 Mrs. {Myrick.} Twelve thousand, which seems awfully low  
1521 considering the fact that this pre-existing condition was  
1522 used routinely as one of the reasons that we needed to have  
1523 the law. So don't you think the health care law is an  
1524 unprecedented intrusion into the health care sector was  
1525 probably oversold by continuing referencing those who had  
1526 pre-existing conditions.

1527 Mr. {Angoff.} No, I don't think so, Congresswoman.  
1528 The--and I don't think it is law. The program has only been  
1529 up for a couple of months. It is a transitional mechanism.  
1530 It is only necessary because under current law insurance  
1531 companies are permitted to exclude people based on health  
1532 status and to charge more based on that.

1533 Mrs. {Myrick.} Well, when the report was issued last  
1534 April CMS's Chief Actuary said the creation of a national

1535 high-risk insurance pool will result in roughly 375,000  
1536 people getting coverage in 2010, and if only 12,000 have  
1537 enrolled, it seems to me that that is an overestimate of  
1538 about 360,000 people for last year.

1539         Mr. {Angoff.} No question that prediction has proved to  
1540 be inaccurate. There were fears that the program would be  
1541 overrun, and that has not occurred.

1542         Mrs. {Myrick.} Well, the Washington Post did a story  
1543 also on the end of 2010, in December, the open question was--  
1544 this is what they said. It is an open question whether the  
1545 \$5 billion allotted by Congress to start up the plans will be  
1546 sufficient. Do you think these high-risk pools will need  
1547 additional funding?

1548         Mr. {Angoff.} No, I don't.

1549         Mrs. {Myrick.} The same news article states New  
1550 Hampshire's plan has only about 80 members, but they already  
1551 have spent nearly double the \$650,000 the State was allotted.  
1552 Is this true?

1553         Mr. {Angoff.} No, it is not. That--they spent--that--  
1554 they spent more than the amount that was allotted for 1 year,  
1555 but they are well under the amount that was allotted for the  
1556 entire lifetime of the program.

1557         Mrs. {Myrick.} And how many people are they scheduled  
1558 to enroll then in the program?

1559 Mr. {Angoff.} I am sorry?

1560 Mrs. {Myrick.} How many people are they scheduled to  
1561 enroll in the program based on what you are saying?

1562 Mr. {Angoff.} I can't give you a projected number of  
1563 people, but I do know that the projections are that they will  
1564 not exceed the amount that they have been allotted for the  
1565 entire lifetime of the program.

1566 Mrs. {Myrick.} Will States like New Hampshire be  
1567 provided any more money then in case they do?

1568 Mr. {Angoff.} There is a process pursuant to which  
1569 money could be reallocated but--

1570 Mrs. {Myrick.} Does that mean reallocated from other  
1571 States that aren't spending it or--

1572 Mr. {Angoff.} Yes, but that is very unlikely because  
1573 there is no State which has spent more than its allocation  
1574 for the period of--

1575 Mrs. {Myrick.} At this point.

1576 Mr. {Angoff.} --that the program would be in place, and  
1577 as you pointed out, there is a lot of money left to insure a  
1578 lot of people, and we are looking forward to doing that.

1579 Mrs. {Myrick.} The article also states that although  
1580 they collect enrollment data monthly, they have decided--you  
1581 have decided to report it on a quarterly basis. Can you  
1582 commit to reporting it on a monthly basis instead of

1583 quarterly since the data is available?

1584 Mr. {Larsen.} I would have to go back and check with  
1585 our systems folks.

1586 Mrs. {Myrick.} Would you do that?

1587 Mr. {Larsen.} Sure.

1588 Mrs. {Myrick.} Because it seems like, you know, if it  
1589 is overestimated enrollment that is still spending more than  
1590 it was originally promised, if you wait on the quarterly data  
1591 instead of doing it monthly, it just doesn't--

1592 Mr. {Larsen.} Sure.

1593 Mrs. {Myrick.} --serve the purpose, and it technically  
1594 kind of eliminates political damage.

1595 Mr. {Larsen.} Well, we can do that, and to Mr. Angoff's  
1596 point, the initial period, the start-up, getting this set up  
1597 was where the resources were devoted to to make sure that the  
1598 program was up and running.

1599 Mrs. {Myrick.} Okay.

1600 Mr. {Larsen.} So we understand that there are estimates  
1601 out there that are higher than the 12. We know, for example,  
1602 that after we got the program up and running and we started  
1603 the outreach, I think, in the last period, enrollment has  
1604 increased 50 percent. So we are already seeing a very rapid  
1605 rise in the enrollment of this, and we fully expect that to  
1606 grow as we now, having stood the program, have had the

1607 opportunity to get the work--

1608 Mrs. {Myrick.} Got one more question because I am  
1609 running out of time. HHS recently announced that new  
1610 resources will be available to increase awareness of the  
1611 program. Correct?

1612 Mr. {Larsen.} Correct.

1613 Mrs. {Myrick.} And so some of those include working  
1614 with the U.S. Social Security Administration on a  
1615 comprehensive outreach campaign. Any idea on the cost of  
1616 that?

1617 Mr. {Larsen.} I don't sitting here today, but I will  
1618 get that--

1619 Mrs. {Myrick.} If you will get it back to me.

1620 Mr. {Larsen.} Absolutely.

1621 Mrs. {Myrick.} I mean, there has already been so much  
1622 discussion about this Health Care Bill, and there has been so  
1623 much awareness, et cetera, the long period we debated it that  
1624 my concern is do we really need to spend more dollars right  
1625 now on additional outreach. So--

1626 Mr. {Larsen.} Well, I think we--

1627 Mrs. {Myrick.} --Mr. Chairman--go ahead.

1628 Mr. {Larsen.} --have learned that it really takes a lot  
1629 of effort. Many of these people are--they have had a tough  
1630 time, they have medical conditions, they don't have coverage,

1631 so we are going to work with hospitals and providers and  
1632 other sources to make sure that they get what they need, and  
1633 they are aware of this program.

1634 Mrs. {Myrick.} Thanks. I am out of time.

1635 Mr. {Stearns.} Thank the gentlelady. Ms. Schakowsky,  
1636 recognized for 5 minutes.

1637 Oh, Mr. Waxman. I didn't see you.

1638 Mr. {Waxman.} Thank you very much, Mr. Chairman.

1639 Republicans, some of the Republicans on this committee and  
1640 elsewhere have been relentless in their attacks on the Health  
1641 Care Bill generally and on your Office's implementation of  
1642 the bill in particular. One of the main allegations is that  
1643 CCIIO has acted with bias in granting waivers to annual  
1644 limits on essential benefits coverage.

1645 Representative Gingrey alleged that the waiver process  
1646 has been, ``highly political and selective,' ' and that  
1647 politics and insider status rather than objective criteria  
1648 have been guiding this process. Others have suggested that  
1649 an increase in waiver grants following the November, 2010,  
1650 election reflects potential reward of political allies.  
1651 Subcommittee Chairman Stearns said, ``From December, 2010, to  
1652 January, 2011, the number of waivers grew from 222 to over  
1653 700, and yes, a lot of those waivers are going to unions.' '

1654 Mr. Larsen, before this hearing HHS turned over to the

1655 committee detailed information on all approvals and denials  
1656 of requests for waivers from the New Annual Limits Provisions  
1657 of the Affordable Care Act. I would like to get your  
1658 thoughts on what this information shows about the allegations  
1659 of bias.

1660         The information HHS has provided the committee shows  
1661 that of applications by union plans or plans that serve union  
1662 members 14 percent were denied waivers compared to denial  
1663 rate of about 3 percent for all other applicants, so plans to  
1664 serve union members are almost five times as likely to be  
1665 denied waivers as other applicants.

1666         Do you think this information supports allegations that  
1667 CCIIO is showing favoritism towards unions?

1668         Mr. {Larsen.} No. It doesn't, and to be clear, we  
1669 didn't solicit applications from any particular sector. We  
1670 didn't favor applicants from any particular sector or type of  
1671 applicant. I know it has been described in some cases as a  
1672 high percentage of union approvals, but as I think the data  
1673 show and hopefully we have clarified for you all, those are  
1674 generally the Taft-Hartley Plans, which, in fact, is  
1675 employer-sponsored coverage. They are not union plans, and  
1676 so as you point out, there is a very--a small percentage, in  
1677 fact, of unions that have gotten waivers, a much higher  
1678 percentage of employer-based coverage.

1679           Mr. {Waxman.} I guess to say that unions are getting  
1680 special treatment, which they are not, is a way to get people  
1681 angry because they want to stir up hostility to unions,  
1682 although the unions, unfortunately, are shrinking to less and  
1683 less an important part of our economy.

1684           Mr. Larsen, the information received from our committee  
1685 indicates that there was a spike in waiver grants in January  
1686 of this year. Can you explain why there was such an  
1687 increase?

1688           Mr. {Larsen.} Yes. So we require applicants to submit  
1689 their requests 30 days in advance of the plan year, the  
1690 policy year for which the coverage takes effect, and because  
1691 many plan and policy years begin on January 1, as you might  
1692 expect, right around December 1 and the end of November we  
1693 received an increase in the number of waiver applications to  
1694 coincide with the large number of plans.

1695           So there is kind of a bubble, and things have receded  
1696 back down closer to the levels that we saw right before  
1697 December.

1698           Mr. {Waxman.} Well, let me be very specific. I want to  
1699 ask you this question. Is political support for the Obama  
1700 Administration a factor in any way for the CIIIO considering  
1701 and evaluating applications for the waivers to annual limit?

1702           Mr. {Larsen.} No, not in any way.

1703           Mr. {Waxman.} And can you assure this committee that  
1704 your office has handled the waiver process in an unbiased  
1705 fashion?

1706           Mr. {Larsen.} We handle the applications in an unbiased  
1707 fashion.

1708           Mr. {Waxman.} So when people make these charges, there  
1709 is no basis for these charges. They are all political. It  
1710 is all propaganda. It is just another attack on this  
1711 Administration, another attack on the Health Care Bill.

1712           I am a strong believer in effective oversight, but this  
1713 redoric and tone surrounding the attacks on HHS  
1714 implementation of the health care law has me very concerned.  
1715 Opponents have hurled one accusation after another at HHS and  
1716 at the Health Care Bill, and then when the facts emerge, the  
1717 allegation turns out to be unfounded.

1718           I hope that we are not going to do this in oversight on  
1719 all the issues that we have before us. I just hear these  
1720 statements that I know are untrue. The Republicans say that  
1721 they had a bill that would have accomplished all the same  
1722 things that the Democratic bill would have accomplished. It  
1723 would have stopped the discrimination for pre-existing  
1724 conditions, it would have stopped these discriminations by  
1725 insurance companies. That isn't what they proposed at all,  
1726 and they didn't propose anything that covered Americans.

1727 Maybe \$3 million, not the \$30 million that the bill covered.  
1728 I just get frustrated that we have to run after the  
1729 falsehoods with truth.

1730 I yield back the balance of my time.

1731 Mr. {Stearns.} Gentlelady from Tennessee is recognized  
1732 for 5 minutes.

1733 Mrs. {Blackburn.} Thank you, Mr. Chairman, and we are  
1734 talking so much about the waivers that States are getting,  
1735 including Tennessee, which came to you and asked for a  
1736 waiver, and I have got their waiver letter with me. This  
1737 came to you September 17, 2010. This was during the  
1738 administration of Governor Bredesen, who has since left  
1739 office, and we have Governor Haslam.

1740 But talking about these waivers and our concern, our  
1741 program in Tennessee, CoverTN, which is an innovative program  
1742 that was put in place, and we are concerned about what is  
1743 going to happen with these programs in the future, and I want  
1744 to read for you page 6 of this letter that went to you. It  
1745 says that absent a waiver, absent getting a waiver from you,  
1746 from Obama Care, that the State would have to dis-enroll  
1747 20,000 Tennesseans, who were not served by the commercial  
1748 market in Tennessee prior to their enrollment in CoverTN. It  
1749 seems likely that the majority of these individuals would  
1750 become uninsured, and finally, it goes on and states that

1751 insurance premiums would go up, get this, 86 percent.

1752 Eighty-six percent.

1753 So would you agree with me that this would be a  
1754 significant cost increase to individuals and the State?

1755 Mr. {Angoff.} I would. I would just like to make one  
1756 thing clear, though, that I don't think has been made clear,  
1757 which is this. The waivers are not granted to States. They  
1758 are granted for coverage that is mandated by States. I am  
1759 not as familiar with Tennessee as I am with New Jersey where  
1760 I was Deputy Commissioner, and in New Jersey, for example,  
1761 New Jersey mandates that all carriers shall have certain  
1762 coverage.

1763 Mrs. {Blackburn.} That is right. You all had  
1764 guaranteed issue in New Jersey, but we have a TennCare  
1765 program that was put up as an executive order of the governor  
1766 and then has been run under the purview of CMS. Okay, but  
1767 you all granted Tennessee a waiver for this program. Right?

1768 Mr. {Angoff.} For that specific program.

1769 Mrs. {Blackburn.} For the CoverTN Program. That is  
1770 exactly right. The program that is working and providing  
1771 coverage and is successful.

1772 Mr. {Angoff.} Correct.

1773 Mrs. {Blackburn.} Now, what is Tennessee and what are  
1774 these Tennesseans going to do in 2014? Where are they going

1775 to go? What is going to happen? Because that program is not  
1776 going to be there unless you give it another waiver.

1777 Mr. {Angoff.} Well, I just say this. When a State and  
1778 we have been very conscious of this. When a State mandates  
1779 certain coverage, and I will refer to New Jersey again  
1780 because I am most familiar with that, New Jersey mandates  
1781 that carriers sell relatively limited coverage, and so when a  
1782 State mandates certain coverage--

1783 Mrs. {Blackburn.} Sir, I am going to interrupt you with  
1784 that because I am not talking about guaranteed issue. I am  
1785 talking about an innovative program in Tennessee that is  
1786 working and what is going to happen with that program. And,  
1787 see, I think my State is a great example of what is wrong  
1788 with your approach to this with Obama Care, because you are  
1789 going to take away a program that is working and then people  
1790 are going to be left to go through and try to find something  
1791 through an exchange, and they are going to face higher rates,  
1792 and they are going to face a cramped access to health care  
1793 services. Their insurance cost goes up, and the delivery  
1794 costs goes up. It goes up on two fronts, two separate  
1795 fronts, you know.

1796 And I think that the letter--I was looking at page 3 of  
1797 this where it defines the benefits. This is a State  
1798 solution. CoverTN is a State solution to provide affordable

1799 basic health insurance for small businesses, the self-  
1800 employed, and the recently unemployed that covers the most  
1801 frequently-used services. This letter also explains to you  
1802 that because of the way this program was set up, and the  
1803 letter came to you from the Department of Finance and  
1804 Administration from the State of Tennessee on behalf of the  
1805 CoverTN Program, but it states this plan has seen enrollment  
1806 climb because, number one, the plan is affordable, and the  
1807 medical loss ratio for 2010, was 87 percent.

1808           Now, under the current rules this plan would disappear  
1809 in 2014. Is that correct?

1810           Mr. {Larsen.} Congresswoman, if I could respond, I  
1811 actually think we are in agreement on many issues. The State  
1812 of Tennessee, like other States, in response to the very  
1813 broken marketplace that we are all trying to solve.

1814           Mrs. {Blackburn.} Our marketplace was broken because of  
1815 the implementation of TennCare that ate up 35.3 percent of  
1816 the budget--

1817           Mr. {Larsen.} I can't speak to TennCare.

1818           Mrs. {Blackburn.} --and saw hundreds of thousands of  
1819 Tennesseans dis-enrolled from the program.

1820           Mr. {Larsen.} So Tennessee--

1821           Mrs. {Blackburn.} You are correct. We were under the  
1822 1115 Waiver Program, and it did nearly bankrupt the State,

1823 and I would hope, I would like to move onto my last question.

1824 Mr. {Larsen.} If I could, ma'am

1825 Mrs. {Blackburn.} No, sir. I have got one last

1826 question that I am going to ask and because you all avoid it.

1827 If history is a guide, what in heaven's name are you going to

1828 do with escalating costs? TennCare's cost quadrupled. They

1829 quadrupled within about a 5-year period of time.

1830 So if history is a guide and that happens with Obama

1831 Care, I would love to hear what is your plan for dealing with

1832 accelerated costs?

1833 Mr. {Larsen.} The Affordable Care Act, in fact, is full

1834 and its purpose is to lower the cost curve, and there is a

1835 series--

1836 Mrs. {Blackburn.} Sir, history tells you that when you

1837 go into this premise of near-term expenses banking on long-

1838 term savings, it doesn't work. What is your plan B?

1839 Mr. {Larsen.} The plan is the Affordable Care Act.

1840 That is the plan, and it is going to work.

1841 Mrs. {Blackburn.} Sir, there is no case in history in

1842 this country where this has worked.

1843 Mr. {Larsen.} This will work.

1844 Mrs. {Blackburn.} None. It is--

1845 Mr. {Stearns.} I thank the gentlelady. The time has

1846 expired and will recognize--

1847 Ms. {DeGette.} Mr. Chairman, I would like to ask  
1848 unanimous consent to let Mr. Larsen answer the very important  
1849 question that Ms. Blackburn asked.

1850 Mr. {Stearns.} Well, I think Mr. Larsen answered it.  
1851 He said that the answer is Obama Care.

1852 Ms. {DeGette.} No. The previous question that she  
1853 asked.

1854 Mr. {Stearns.} Mr. Larsen, did you answer her previous  
1855 question?

1856 Mr. {Larsen.} Well, the point, the only point I was  
1857 trying to make about the State programs and the point that I  
1858 think we were in agreement on, which was the market is  
1859 broken. People can't get coverage, haven't been able to get  
1860 affordable coverage. One response at the State level, these  
1861 are the States that applied for waivers, were to set up  
1862 programs that have limited benefits, and we understand that.  
1863 We agree that those programs between now and 2014, should  
1864 continue so that those people do have access to care. Then  
1865 in 2014, they will have access to much better--

1866 Mr. {Stearns.} I would advise all members we are going  
1867 to have a second round here, so if anybody wants to stay,  
1868 they can go into it.

1869 So Ms. Schakowsky.

1870 Ms. {Schakowsky.} Well, let me explore that a little

1871 further. The waiver that is granted to States like Tennessee  
1872 and Florida is to allow the mini-med plans. Talk about those  
1873 plans for a minute that Ms. Blackburn has lauded as some  
1874 really great coverage. What are we really talking about in  
1875 terms of mini-med plans? Are they not limited coverage?

1876 Mr. {Larsen.} They are a limited coverage. They are  
1877 not all the same. Some have very low annual limits. Some  
1878 have restrictions on other types of benefits, and that is the  
1879 dilemma because they are not good coverage. They don't  
1880 provide comprehensive coverage, but, nonetheless, today until  
1881 the full reforms of the Affordable Care Act kick in, that is  
1882 an option for people.

1883 Ms. {Schakowsky.} Right.

1884 Mr. {Larsen.} And we want people to have that option,  
1885 even though it is not necessarily full coverage.

1886 Ms. {Schakowsky.} So we see that as a bridge--

1887 Mr. {Larsen.} As a bridge.

1888 Ms. {Schakowsky.} --as you said to better coverage.  
1889 Would you describe what happens to people who are in the  
1890 mini-med programs now once the full implementation of the  
1891 Affordable Care Act in 2014?

1892 Mr. {Larsen.} Well, they are going to get a much  
1893 richer, fuller benefit package, and they are not going to  
1894 have to worry about whether they spend 4 days in the hospital

1895 and run out of their inpatient coverage because there is an  
1896 annual limit on their policy.

1897         So consumers are going to be better off. The system is  
1898 going to be better off because we are not going to have  
1899 levels of uncompensated care that we have today. So that is  
1900 the world in 2014.

1901         Ms. {Schakowsky.} I want to go back to the issue of the  
1902 States for just a second, the overall policy, because, again,  
1903 it was--it seemed to be promoted by our Chairman as, again,  
1904 something political about Florida or New York. What States,  
1905 what is the feature in the States that would uniquely make  
1906 them eligible for a waiver?

1907         Mr. {Larsen.} The feature is if they have a law or  
1908 program that establishes a package of benefits that insurers  
1909 have to issue or insurers issue pursuant to a State program.  
1910 So there is a small number of States that have these types of  
1911 programs, one of which is--

1912         Ms. {Schakowsky.} These are the limited-benefit  
1913 programs.

1914         Mr. {Larsen.} That is right.

1915         Ms. {Schakowsky.} Uh-huh. So--

1916         Mr. {Larsen.} And otherwise we apply the same  
1917 regulatory criteria that we apply to all applicants to the  
1918 States that apply. So there has to be a significant increase

1919 in premiums or decrease in access to benefits if they had to  
1920 comply with the law.

1921 Ms. {Schakowsky.} Okay. The other issue I wanted to  
1922 deal with, there was a charge made somehow that there is  
1923 skimming in order to create your office, and I wanted to talk  
1924 a little bit about it.

1925 Mr. Angoff, I wanted to ask you about the Secretary's  
1926 authority to create the office. Implementing landmark health  
1927 insurance reform, of course, is a huge job, and following the  
1928 enactment of the Affordable Care Act, Secretary Sebelius  
1929 established the Office for Consumer Information and Insurance  
1930 Oversight.

1931 So you have--I think you talked a little bit about the  
1932 responsibilities of the office, but I am more interested in  
1933 getting to the question really of the authority because  
1934 Representative Burgess questioned that authority. We looked,  
1935 the committee looked into, the staff did some research and  
1936 found that according to the Department's reorganization plan  
1937 from 1953, the Secretary, ``may from time to time make some  
1938 provisions as the Secretary deems appropriate, authorizing  
1939 the performance of any of the functions of the Secretary by  
1940 any other officer or by any agency or employee of the  
1941 Department.''

1942 So it looks, Mr. Angoff, like the Secretary has had that

1943 power for nearly 60 years.

1944 Mr. {Angoff.} That is correct. There is no question  
1945 about the Secretary's authority to create the Office. She  
1946 has such authority.

1947 Ms. {Schakowsky.} Now, I also want to clarify what you  
1948 said. You were saying that there is money in the bill to  
1949 implement the provisions and that a decision was made about a  
1950 structure to do that, taking money already in the bill. Is  
1951 that what you were saying? To create an appropriate  
1952 structure.

1953 Mr. {Angoff.} That is correct. There is \$1 billion  
1954 appropriated for the ACA as part of the Act, and then in  
1955 addition there are specific provisions such as the provision  
1956 authorizing the high-risk pools and the provision authorizing  
1957 the Early Retiree Reinsurance Program, which carry  
1958 independent funding with those provisions.

1959 Ms. {Schakowsky.} Thank you. So I just want to end by  
1960 saying words like skim I think are very loaded, they create a  
1961 very negative feeling that, in fact, all of the money to  
1962 create this Office to help implement the bill was  
1963 appropriated and in the legislation. Thank you.

1964 Mr. {Stearns.} Thank the gentlelady. Does the word  
1965 fungible work better?

1966 Mr. Griffith, you are recognized for 5 minutes.

1967           Mr. {Griffith.} Thank you, Mr. Chairman. I am curious  
1968 following up on that line, you were hired on February 16, but  
1969 the legislation wasn't passed until March 23. Why not put a  
1970 line in there that specifically stated that you all were  
1971 going to have this office?

1972           Mr. {Angoff.} I don't--that is not for me to answer.

1973           Mr. {Griffith.} It would have made things a lot  
1974 clearer, would it not?

1975           Mr. {Angoff.} No, I don't think so. I mean, I think  
1976 the provisions which Congresswoman Schakowsky cited make it  
1977 clear that there has never been any question about the  
1978 Secretary's authority to delegate authority and manage her  
1979 jurisdiction in the way she sees fit. So I just don't see  
1980 any issue there.

1981           Mr. {Griffith.} Do you know how much money you all  
1982 spent in this endeavor, 252 employees, and I understand you  
1983 had offices in Maryland at one time?

1984           Mr. {Angoff.} Yes. Through--for fiscal 2010, \$33.4  
1985 million is the amount that comes out of the billion that was  
1986 authorized, that was appropriated.

1987           Mr. {Griffith.} All right, and how much do you  
1988 anticipate going forward?

1989           Mr. {Griffith.} That would be Mr. Larsen's area.

1990           Mr. {Larsen.} We are still working through the 2011,

1991 number, so I can't give you that number at this point. I  
1992 know for--in the President's budget in 2012, we have got, I  
1993 think \$94 million for oversight and consumer assistance and  
1994 functions like that in the President's budget.

1995 Mr. {Griffith.} And you indicated that--speaking to Mr.  
1996 Larsen now, you indicated that you had an outreach program  
1997 for folks to get into the programs regarding high risk or  
1998 areas where people were--

1999 Mr. {Larsen.} We are starting that up now. We have not  
2000 to date had a very vigorous outreach program, and I think  
2001 that accounts for the lower-than-anticipated enrollment. So  
2002 we are going to--

2003 Mr. {Griffith.} My question then would be do you also  
2004 have an outreach program for micro-employers, people that  
2005 have, you know, less than--five or less employees? Do you  
2006 have an outreach program to let them know about they can  
2007 easily access the ability to get a waiver if they need one?

2008 Mr. {Larsen.} We don't have a specific program targeted  
2009 to types of employers, but I would be happy to talk to you  
2010 about ideas for doing that.

2011 Mr. {Griffith.} And as we go forward you don't  
2012 anticipate there being any waivers after 2014?

2013 Mr. {Larsen.} We don't because the law wouldn't allow  
2014 for limited waiver or policies because the restrictions on

2015 the annual limits are complete at that point, and that is the  
2016 point at which consumers have access to a full array of  
2017 benefits.

2018 Mr. {Griffith.} And in regard to the minimum essential  
2019 coverage penalty, how do you see--you answered earlier your  
2020 plan B was this is actually going to work and so forth, but  
2021 how do you anticipate dealing with States like Virginia where  
2022 it has been ruled unconstitutional because of that penalty  
2023 and the 26 States that are in the Florida legislation--

2024 Mr. {Larsen.} Right.

2025 Mr. {Griffith.} --that, of course, got its own opinion?  
2026 How do you all plan to deal with that? Are you going to  
2027 continue to charge forward, notwithstanding the legal  
2028 question which obviously is very serious with, I think, now  
2029 27 States having a ruling that says that that provision at  
2030 least is unconstitutional. Now, the difference, of course,  
2031 Virginia not only had a separate piece of legislation but had  
2032 a separate suit from the others and focused entirely on that  
2033 one part of it.

2034 But how do you plan to go forward?

2035 Mr. {Larsen.} Yeah. I guess I would answer in two  
2036 ways. First, today, right now, we are proceeding with  
2037 implementation of the law, but our lawyers at HHS are, as you  
2038 can imagine, looking at the implications of the ruling and

2039 how we will be responding to that. So--

2040 Mr. {Griffith.} And I guess my question is what is the  
2041 plan B if ultimately the 27 States that have already gotten a  
2042 ruling that is unconstitutional prevail?

2043 Mr. {Larsen.} Yeah. Well, that I can't speak to.

2044 Mr. {Griffith.} Does the plan work without mandatory  
2045 purchase?

2046 Mr. {Larsen.} Well, I think as been discussed publicly,  
2047 the individual responsibility provisions are an important  
2048 part of the architecture of the ACA, but in terms of what  
2049 happens, I can't get into--

2050 Mr. {Griffith.} Including the penalty provision?

2051 Mr. {Larsen.} I can't get into what happens in light of  
2052 the pending litigation that we have.

2053 Mr. {Griffith.} So there is no plan B?

2054 Mr. {Larsen.} I am not saying there is or there isn't a  
2055 plan B, but in matters relating to the litigation that we  
2056 have with the States we are proceeding with implementation  
2057 today as I sit here, and I will leave it to the lawyers to  
2058 figure out--

2059 Mr. {Griffith.} Can you let me know when you develop a  
2060 plan B?

2061 Mr. {Larsen.} We absolutely will.

2062 Mr. {Griffith.} Thank you.

2063 Mr. {Stearns.} Thank the gentleman. Mr. Scalise, the  
2064 gentleman from Louisiana, is recognized for 5 minutes.

2065 Mr. {Scalise.} Thank you, Mr. Chairman. I appreciate  
2066 you calling this hearing. Obviously we are trying to get as  
2067 much information as we can about the impacts, unfortunately  
2068 in many cases, the devastating impacts of President Obama's  
2069 health care law that are now being felt.

2070 I want to talk to you first about the child only  
2071 policies. We have been being a number of companies that used  
2072 to offer child only policies that are now getting out of the  
2073 market because of this law.

2074 Are you aware, first of all, of that problem of the  
2075 companies that are just dropping this line of business  
2076 altogether?

2077 Mr. {Larsen.} Well, the Affordable Care Act set up a  
2078 system where for the first time insurance companies aren't  
2079 going to be able to deny care for sick kids, and that was the  
2080 goal of the Affordable Care Act, and it is unfortunate,  
2081 frankly, that there are insurance companies that have decided  
2082 that if they can--unless they can only insure healthy kids,  
2083 they are not going to offer--

2084 Mr. {Scalise.} So what you are saying you are aware  
2085 that there are companies now that just aren't offering these  
2086 health care options to any parents who want to provide this

2087 for their children. Are you aware of this?

2088 Mr. {Larsen.} In the small segment of the market there  
2089 are companies--

2090 Mr. {Scalise.} Can you tell me how many companies have  
2091 gotten out of this line of business since--

2092 Mr. {Larsen.} Oh, that--I can't answer that exact  
2093 question. I don't know.

2094 Mr. {Scalise.} You can't? I mean, I would understand  
2095 it is your job, your Office's job to follow these effects on  
2096 insurance injury and the ability for people to get access to  
2097 health care. I would think it is your job, so I would think  
2098 you would know how many.

2099 Mr. {Larsen.} Well, here is what we have done. We have  
2100 provided guidance to States, Louisiana and other States, with  
2101 a range of options to encourage them to take, in order to  
2102 maintain a market for these carriers that otherwise don't  
2103 want to ensure sick kids. So they are leaving the market  
2104 because unless they can just insure healthy people--

2105 Mr. {Scalise.} Right, and one of our concerns all  
2106 along, and I mean, frankly it was discussed by those of us on  
2107 this side of the aisle when this bill was being debated over  
2108 the course of the last year and a half, that these kinds of  
2109 mandates and laws that were included in Obama Care were going  
2110 to deny access to people who had health care that they liked.

2111 And, of course, the President multiple times would say if you  
2112 like what you have, you can keep it, and we pointed out in  
2113 many cases that because of these changes, they were going to  
2114 actually force a lot of people just out of the market  
2115 altogether, which would deny coverage to many people who had  
2116 health care that they liked. And so I would, I mean, you  
2117 don't know the number of companies now. You are saying that.  
2118 I would encourage you to go and find out how many there are  
2119 and find out what things need to be done to unravel it  
2120 unless, I guess, you all are more concerned about invoking a  
2121 policy than actually improving access to people who want to  
2122 get health care, because your policies that took effect.

2123 I see in September of 2010 are what ran a lot of these  
2124 people out of the market altogether, and there are articles  
2125 that started coincidentally right after the law took effect  
2126 that talk about all of these companies that were offering  
2127 health care options to children that no longer are doing it.  
2128 So now you have denied access to families, parents who had  
2129 good health care for their kids that don't have that option  
2130 today.

2131 Mr. {Larsen.} We have not. The insurance companies--

2132 Mr. {Scalise.} Well, the law did. You personally  
2133 didn't do it, but Obama Care did, and since it is your job to  
2134 track these things, I would encourage you to go back and take

2135 a look.

2136 Mr. {Larsen.} Well, we have worked with the States. We  
2137 have sent guidance out and worked with the States to provide  
2138 them with--

2139 Mr. {Scalise.} Well, you know, with the States, you  
2140 know, you are on your own now because families don't have the  
2141 same options. They have limited options, and you know, I  
2142 appreciate maybe you have a difference on the overall law. I  
2143 will say, you know, and I am glad that the Chairman is having  
2144 this. I am a little surprised that some of our counterparts  
2145 on the other side are criticizing us for having this hearing.  
2146 There is a letter, and I would like to get the letter in the  
2147 record, there is a letter that a number of members of this  
2148 committee wrote last year asking then Chairman Waxman to hold  
2149 a hearing on these kind of problems, and for whatever reason  
2150 Chairman then Waxman chose not to have any hearings, and  
2151 maybe it is because they didn't want the American people to  
2152 find out just how devastating this law, Obama Care, is on  
2153 denying access to people today.

2154 Now, one other area I want to get--

2155 Mr. {Stearns.} Do you want to put that in the record?

2156 Mr. {Scalise.} And I would like, yeah, to ask unanimous  
2157 consent to put that letter in the record, because I think--

2158 Mr. {Stearns.} Without objection, so ordered.

2159 Mr. {Scalise.} --it is important to show we have been  
2160 interested in this for a long time. Unfortunately, the folks  
2161 on the other side when they were in charge didn't want to  
2162 have these kind of oversight hearings where the American  
2163 people could find out that people today are being denied  
2164 health care that they liked because of this law.

2165 [The information follows:]

2166 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
2167 Mr. {Scalise.} Now let us get to these waivers. I  
2168 think probably one of the biggest heights of hypocrisy is the  
2169 fact that the President ran around touting how great this law  
2170 was going to be, it is going to be wonderful for American  
2171 people, it is going to reform health care problems. Of  
2172 course, we pointed out back then all the problems it would  
2173 created. I am surprised at how many people have asked and  
2174 now, I am not surprised how many people have asked. Frankly  
2175 I think everybody would like and should get a waiver from the  
2176 entire law and hopefully the courts will take care of that,  
2177 but I am surprised how many waivers have been granted.

2178 Can you tell me how many waivers have been granted to  
2179 companies that said we just, you know, we don't want to  
2180 comply with some of these sections.

2181 Mr. {Larsen.} Sure. Through--

2182 Mr. {Scalise.} I am talking about the number. Do you  
2183 know the number?

2184 Mr. {Larsen.} I believe the number that we gave you was  
2185 915.

2186 Mr. {Scalise.} Okay. The 915. There is--from what I  
2187 am understanding about 60 companies have been denied that  
2188 ability to get the waiver. Can you get us the list of those  
2189 companies that have been denied, and even more specifically,

2190 I would ask you to submit to the committee matrix on the  
2191 number of companies, the number of employees, if you don't  
2192 want to include their name for other reasons, I can  
2193 appreciate that, but at least get us the matrix on the number  
2194 of companies, the number of employees, broken done by region,  
2195 and also broken down by union versus non-union, because I  
2196 think a lot of small businesses out there that would like to  
2197 be exempted from this haven't been given that opportunity,  
2198 you know, and maybe there is a line formed at the White House  
2199 where you have to go and get it, but frankly, I think it is  
2200 the public's right to know what that, what those matrix are  
2201 and to get that data and who has been exempted from this--

2202 Mr. {Larsen.} We provided that to the committee.

2203 Mr. {Scalise.} --was touted as a panacea and is, in  
2204 fact, destroying access to health care for millions of  
2205 Americans. Thanks. I yield back.

2206 Mr. {Stearns.} Thank the gentleman. We are going to go  
2207 another round of questions. If you would engage us, I would  
2208 appreciate your forbearance here.

2209 The President kept saying during his campaign, if you  
2210 like your health care, you can keep it. He kept saying that  
2211 as a mantra, but wouldn't both of you agree that without a  
2212 waiver these people that you gave a waiver, they couldn't  
2213 keep their health care? Isn't that true, Mr. Angoff?

2214 Mr. {Angoff.} We don't know whether those people liked  
2215 their health care--

2216 Mr. {Stearns.} No, but, I mean, the fact is the  
2217 President says you can keep it, you can keep your health  
2218 care. If you like your health care, you can keep it, but  
2219 without a waiver, they couldn't keep it. Isn't that true?

2220 Mr. {Angoff.} They are keeping it. Keep in mind that  
2221 in 2014--

2222 Mr. {Stearns.} Mr. Larsen, isn't that true, though,  
2223 basically that without these waivers, McDonald's and these  
2224 people, they couldn't provide?

2225 Mr. {Larsen.} I agree with Mr. Angoff. The fact is  
2226 that they are keeping it, and the ACA contemplated setting up  
2227 a system to ensure that people in these low annual limit  
2228 policies could, in fact, keep--

2229 Mr. {Stearns.} Well, you know, the Democrats are  
2230 continually trying to defend these waivers, but, you know,  
2231 what the problem is the Administration health care, Obama  
2232 Care, has created this problem, and now the Democrats are  
2233 recommending a solution. If they didn't have this problem  
2234 from the first place, we wouldn't need this solution, which  
2235 is these waivers.

2236 So, you know, our response on this side is the only  
2237 reason you have the waiver is because of the new

2238 requirements, all these new requirements of Obama Care making  
2239 insurance, providing insurance too expensive.

2240 For example, you indicated that you had 915 waivers.

2241 2011, as I understand it, the ceiling per year is \$750,000 a  
2242 year. Isn't that true?

2243 Mr. {Larsen.} That is right.

2244 Mr. {Stearns.} Okay, and does it go up to \$1.25 million  
2245 roughly in the year 2012?

2246 Mr. {Larsen.} That is correct.

2247 Mr. {Stearns.} And it goes up in 2013, to over \$2  
2248 million. Is that roughly true?

2249 Mr. {Larsen.} Yes.

2250 Mr. {Stearns.} So if a person could not make it in  
2251 2011, like a McDonald's, aren't there going to be a lot more  
2252 corporations that are going to come for waivers once they  
2253 realize that the benefit is going to go up from \$750,000 to  
2254 \$1.25 million? Don't you think more people will--just  
2255 logically?

2256 Mr. {Larsen.} That is exactly why we set up a program  
2257 where we are going to have a 1-year--

2258 Mr. {Stearns.} I understand, but all those people for 1  
2259 year are going to come back, and then more people are going  
2260 to come. Then the year 2013, it goes to \$2 million, and  
2261 2014, is unlimited. Right?

2262 Mr. {Larsen.} So what we are doing this year to answer  
2263 your question is look at the very question that you are  
2264 asking, which is what is the best glide path for these types  
2265 of policies between now and 2014, in light of the increasing  
2266 annual limits that--

2267 Mr. {Stearns.} It goes to the heart of the whole  
2268 question is the President said if you like your health care,  
2269 you can keep it, but basically you can't keep it unless the  
2270 government gives you waivers. Have you done an economic  
2271 analysis, 2014, comes, right, all these companies you have  
2272 given waivers now must comply. Have you done an economic  
2273 analysis to see what it is going to cost these companies when  
2274 they have to provide unlimited benefits every year for their  
2275 employees?

2276 Mr. {Larsen.} Well--

2277 Mr. {Stearns.} I mean--

2278 Mr. {Larsen.} --remember that this--

2279 Mr. {Stearns.} --we are seeing these waivers from 2011,  
2280 2012, 2013, 2014 unlimited. I mean, have you done any kind  
2281 of economic analysis?

2282 Mr. {Larsen.} But the vast majority of employer-based  
2283 coverage will or already does meet those annual limits. So  
2284 we are always talking about a very small percent of the  
2285 marketplace that has to be on a glide path to 2014.

2286 Mr. {Stearns.} Well, I think that I would disagree with  
2287 you because when you say to a corporation, a small  
2288 corporation that you have got to provide unlimited benefits,  
2289 I think it is going to make it more expensive, and this whole  
2290 process is just going to be very dependent upon high costs at  
2291 which the government is going to have to supplement and pay  
2292 to cover these. And I think you have got the indication of  
2293 the problem with these waivers from States, and if New York  
2294 gets a waiver, has, I mean, at what point after you have  
2295 given these waivers to large States do we actually see the  
2296 realization that we can't afford this?

2297 And so, I mean, we are just talking about escalating the  
2298 number of waivers.

2299 Mr. {Larsen.} Well, I think that is the connection  
2300 between today and 2014. We have a solution in 2014, and we  
2301 need to make sure that this small part of the marketplace  
2302 gets to 2014, and that those individuals as you suggest as  
2303 the President wants, can continue their current coverage.

2304 Mr. {Stearns.} Well, I think for the benefit of acting  
2305 on what the President says, if you like you health care, you  
2306 can keep it, you should have some economic analysis, what is  
2307 going to happen in 2014, based upon all these waivers you are  
2308 anticipating that are going to increase.

2309 Just a last question. How does a corporation know that

2310 he, his corporation, his benefit, his union can get a waiver?  
2311 Do you tell people? I mean, how does a normal small business  
2312 find out? How did Waffle House find out that they could even  
2313 do a waiver? Because I think there is many people out there  
2314 that don't know they can get a waiver, they don't have the  
2315 steps to do it. I don't--are you advertising that you can  
2316 get waivers?

2317 Mr. {Larsen.} We, when we put the waiver process in  
2318 place, we put out a press release, we posted the information  
2319 the website.

2320 Mr. {Stearns.} On your webpage.

2321 Mr. {Larsen.} A number of--that is right. Trade  
2322 groups, law firms--

2323 Mr. {Stearns.} When did you do that?

2324 Mr. {Larsen.} --consultants.

2325 Mr. {Stearns.} How long ago? Did you do it 2 months  
2326 ago or--

2327 Mr. {Larsen.} Well, we set the program up in September,  
2328 and then we have had subsequent--

2329 Mr. {Stearns.} Okay.

2330 Mr. {Larsen.} --guidance since then and--

2331 Mr. {Stearns.} So I could advise any corporation in the  
2332 State that wants a waiver to go to your webpage, and they  
2333 would understand how to fill out the forms and do it?

2334 Mr. {Larsen.} Yes.

2335 Mr. {Stearns.} Okay. My time has expired. The  
2336 gentlelady, Ms. DeGette.

2337 Ms. {DeGette.} Thank you, Mr. Chairman. I just want to  
2338 clarify a couple of things.

2339 The first thing I want to clarify, Mr. Larsen, is Mr.  
2340 Scalise asked you if the information on all of the waivers,  
2341 the applications, the approvals, et cetera, was available,  
2342 and it is available online. Correct?

2343 Mr. {Larsen.} It is on our website. Yes.

2344 Ms. {DeGette.} So you guys aren't trying to hide any of  
2345 that information. Right?

2346 Mr. {Larsen.} No, we are not in any way.

2347 Ms. {DeGette.} Thank you.

2348 Mr. {Larsen.} We are very--

2349 Ms. {DeGette.} The second question I have is he was  
2350 talking, Mr. Scalise was talking quite a little bit about the  
2351 insurance companies after the requirement that they couldn't  
2352 drop children with pre-existing conditions were leaving the  
2353 market, in fact, most children are the cheapest group of  
2354 folks to insure if they are healthy. Correct?

2355 Mr. {Larsen.} Correct.

2356 Ms. {DeGette.} And so really what these insurance  
2357 companies are saying is we don't want to have to give

2358 insurance policies to children with pre-existing conditions  
2359 or who are sick. Would that be a fair interpretation?

2360 Mr. {Larsen.} That is correct.

2361 Ms. {DeGette.} And the Affordable Care Act as it is  
2362 phasing in now says, you know what, if you are going to offer  
2363 parents an insurance policy, you have to offer people like  
2364 Diana DeGette, who has a child with Type I Diabetes, an  
2365 insurance policy just like you have to offer everybody else  
2366 an insurance policy. Isn't that right?

2367 Mr. {Larsen.} Right.

2368 Ms. {DeGette.} Don't you think--well, never mind. I  
2369 will say what I think. I think the parents of America would  
2370 like to see sick children as well as well children insured.

2371 Let me ask you another question which is I guess I am a  
2372 little bit perplexed by some of these lines of questioning on  
2373 the other side, because the reason you folks set up these  
2374 waivers is so that States or--well, strike that. So that  
2375 employers that were offering these limited-benefit plans  
2376 would be able to continue to offer those in the transition  
2377 period before--between now and 2014. Right?

2378 Mr. {Larsen.} Correct.

2379 Ms. {DeGette.} And if we didn't have these waivers,  
2380 then those folks would be bumping up against the caps.

2381 Correct?

2382 Mr. {Larsen.} For the small percent of the market.

2383 Yes.

2384 Ms. {DeGette.} For the 2 percent of the market that is  
2385 getting the waivers. Right?

2386 Mr. {Larsen.} Correct.

2387 Ms. {DeGette.} And so it seems to me that what you are  
2388 doing is you are allowing this gap to be filled between now  
2389 and 2014, for people who need those policies. Right?

2390 Mr. {Larsen.} That is correct.

2391 Ms. {DeGette.} Now, I want to ask you this follows up  
2392 on this last question, and the reason you are not going to  
2393 need these waivers in 2014, is because there are many new  
2394 tools that are coming on deck in 2014, that these employers  
2395 will be able to have. Is that right?

2396 Mr. {Larsen.} That is correct.

2397 Ms. {DeGette.} I am wondering if you can explain some  
2398 of those tools that we will have and why we will no longer  
2399 need those waivers for these limited number of employers in  
2400 2014, briefly.

2401 Mr. {Larsen.} Well, consumers are going to have a range  
2402 of new options. First of all, there is going to be a ban on  
2403 all pre-existing conditions for all issuers. Everyone can  
2404 get coverage. Everyone can get full coverage. There will be  
2405 an essential package of benefits. There will be options

2406 within the exchanges with richer benefits and not as rich  
2407 benefits covering still the same set of essential benefits.  
2408 There will be a competitive marketplace where people can  
2409 shop. Competition will increase, and for those who are low-  
2410 income individuals, there will be opportunities for premium  
2411 subsidies to get better coverage that will be affordable for  
2412 them.

2413 Ms. {DeGette.} So, in fact, I don't know if you are  
2414 aware but the non-partisan Congressional Budget Office made a  
2415 projection, and what they said was Americans buying  
2416 comparable health care plans to what they have today in the  
2417 individual market would see their premiums fall after 2014,  
2418 by 14 to 20 percent, which would save \$732 on an individual  
2419 policy and \$1,975 for a family policy. Most Americans buying  
2420 coverage on their own would qualify for these tax credits  
2421 that would reduce their premiums by an average of 60 percent,  
2422 even as they get better coverage as they have today.

2423 And the CBO also estimated that small businesses would  
2424 see premium reductions of 8 to 11 percent and would receive  
2425 tax credits worth nearly \$40 billion over the next decade to  
2426 help pay for coverage.

2427 Are you aware of the CBO analysis?

2428 Mr. {Larsen.} Generally, yes.

2429 Ms. {DeGette.} And one last question. According to

2430 what you know are the benefits that people, that employers  
2431 are going to have to offer after 2014, unlimited benefits?

2432 Mr. {Larsen.} They are not going to be able to have  
2433 lifetime and annual limits on the policies that they issue.

2434 Ms. {DeGette.} But the limits--are not unlimited. They  
2435 are going to be--

2436 Mr. {Larsen.} Oh, that is right. That is right.

2437 Ms. {DeGette.} Thank you.

2438 Mr. {Stearns.} Thank the gentlelady. Dr. Burgess is  
2439 recognized for 5 minutes.

2440 Dr. {Burgess.} Thank you, Mr. Chairman. In the  
2441 interest of brevity I am interested in the private sector  
2442 experience that both of you have, and perhaps you could  
2443 provide that to the committee at some point so we would be  
2444 able to review that.

2445 I want to just close the loop on a line of questioning  
2446 that I was undertaking before, Mr. Angoff. So now we have  
2447 the situation where OCCIIIO has become CCIIIO, and it is  
2448 located at CMS. Right?

2449 Mr. {Angoff.} Yes, sir.

2450 Dr. {Burgess.} Just recapitulate and all the functions  
2451 that I mentioned before are now under the direction of  
2452 Administrator Dr. Don Berwick. Is that correct?

2453 Mr. {Angoff.} Yes, sir.

2454 Dr. {Burgess.} So CMS, Center for Medicare and Medicaid  
2455 Services oversees Medicare, Medicaid, SCHIP, and a very  
2456 significant portion of the private insurance market over  
2457 which it never authority in the past. Is that a valid  
2458 observation?

2459 Mr. {Angoff.} Not entirely in that much of Medicaid and  
2460 Medicare now is actually run through the private insurance  
2461 system.

2462 Dr. {Burgess.} But it is all directly--Dr. Berwick is  
2463 directly responsible for all of those federal programs.

2464 Mr. {Angoff.} yes.

2465 Dr. {Burgess.} So we have the public and private side  
2466 by side as PPACA phases in. So, again, just to complete the  
2467 story, we have an Administrator at CMS, who parenthetically  
2468 has never been confirmed by the Senate because he was a  
2469 recess appointment, so as much affection and respect that I  
2470 have for Dr. Don Berwick, he has never come before the United  
2471 States Senate to undergo the confirmation process. Maybe  
2472 they will have an opportunity to do that before, but he is in  
2473 charge of almost all insurance coverage in the United States  
2474 of America as PPACA phases in, and it is all going to be led  
2475 by this sub-organization of HHS, CCIIO, that is a follow on  
2476 from OCCIO that was a non-directly appropriated, non-  
2477 authorized center without clear authority who cannot provide

2478 his budget to the committee at this time. Is that a fair  
2479 assessment of the landscape as we--as it exists today?

2480 Mr. {Angoff.} I don't think it is fair because I think-  
2481 -

2482 Dr. {Burgess.} Of course it is. I went to great detail  
2483 to, painstaking detail to outline it for you.

2484 Mr. {Angoff.} And I--Congresswoman Schakowsky went into  
2485 specific detail about the specific provisions which authorize  
2486 the Secretary to delegate her authority, and as I said  
2487 before, there is a delegation, and I am happy--and we will  
2488 provide that to the committee.

2489 Dr. {Burgess.} And, again, I have been working for  
2490 several months. I would very much like to have that  
2491 delegation of authority and the budgetary plan under which  
2492 you have been working, Mr. Larsen, under which you intend to  
2493 work going forward because I just think for an entirely new  
2494 federal agency that is going to have this broad of power, and  
2495 I went through those powers with you, this broad a scope and  
2496 reach over--into the lives of every single man, woman, and  
2497 child in this country, not just now but for the next 3  
2498 decades, it is appropriate that this committee from time to  
2499 time have some curiosity about just what is going on and  
2500 kicking the tires on OCCIO or CCIO or whatever it then  
2501 becomes going forward.

2502           The Governor of Utah was in town this week and spoke at  
2503 several places. I know we have been talking about the waiver  
2504 authority under the mini-med plans, but you are also  
2505 responsible for setting up the State exchanges. Is that  
2506 correct?

2507           Mr. {Angoff.} That is correct.

2508           Dr. {Burgess.} And Governor Herbert had mentioned some  
2509 difficulty that he was having getting an answer out of CMS or  
2510 HHS on some flexibility that he wanted. Just the  
2511 administrative flexibility of being able to do things  
2512 electronically rather than on paper, that he estimated would  
2513 save his State some \$600 million a year, but he had been  
2514 waiting from July until this week to get an answer.

2515           Does that seem a little long?

2516           Mr. {Larsen.} Well, I apologize. I don't know the  
2517 details of what he is looking for. I know that we have on  
2518 ongoing dialogue with the States and the State Governors. I  
2519 know Utah has an exchange as do one or two other States, and  
2520 we look forward to working with the States. We view the  
2521 States as our partners on the exchange process and--

2522           Dr. {Burgess.} Well, again, it just looks like July to  
2523 the day after Valentine's Day seems like a long timeframe to  
2524 get an answer on a relatively straightforward administrative  
2525 simplification request that his State had with the

2526 expectation that it is going to save significant dollars for  
2527 the State.

2528           And after all, I mean, the gentlelady from Tennessee  
2529 pointed out a big problem for all of us, you guys at the  
2530 witness table but for us guys up here at the dais, in that  
2531 what do you do going forward? All this stuff--you are  
2532 granting the waivers, you are kind of doubling down on the  
2533 population as it is coming in. 2014, hits, you flip the  
2534 switch, and no light comes on. What do we do then?

2535           Mr. {Larsen.} Well, I think in 2014--

2536           Dr. {Burgess.} You are betting on all this stuff  
2537 working.

2538           Mr. {Larsen.} I think we are going to flip the switch  
2539 and the lights are going to go on, and it is going to be--

2540           Dr. {Burgess.} But, again, as the gentlelady from  
2541 Tennessee pointed out, where is the plan B? What rational  
2542 person looks at the demographics of the United States of  
2543 America today with people my age who within a very short  
2544 period of time will be entering Medicare, the advancing  
2545 complexity of what we are able to do to alleviate suffering  
2546 and treat disease, what rational person looks at that and  
2547 says, you know what? In 2014, it is going to cost \$500  
2548 billion less than it did the year before. I mean, that is  
2549 crazy talk. That is not going to happen.

2550           It is going to cost more to take care of the Medicare  
2551 patients going forward, and other than waiting lists and  
2552 rationing, I don't see that you have done anything that is  
2553 going to be able to control costs going forward.

2554           Mr. Chairman, I appreciate the indulgence on the time.  
2555 I would be happy to hear the answer from either of our  
2556 panelists if they would care to do so.

2557           Mr. {Angoff.} Yeah. I would just like to point out  
2558 just one rule which really already is having an affect, and  
2559 that is the medical loss ratio regulation. The Trade Press  
2560 really is reporting that that is already having an affect of  
2561 having companies reduce their rates, provide, and provide  
2562 more generous benefit packages to their policyholders.

2563           So there are already things that are being done, even  
2564 though it has only been in effect for a short while, that are  
2565 actually driving down costs.

2566           Dr. {Burgess.} Yes. With all due respect you were late  
2567 getting that done and let us revisit that in a year's time  
2568 and see what the story looks like.

2569           Thank you, Mr. Chairman.

2570           Mr. {Stearns.} I thank the gentleman. The gentleman  
2571 from Colorado, Mr. Gardner, is recognize for 5 minutes.

2572           Mr. {Gardner.} Thank you, Mr. Chairman, and Mr. Foster,  
2573 in your opening statement that I was able to listen to you

2574 mentioned that you--it is your goal to allow people to keep  
2575 the insurance that they currently have. That was something  
2576 that you had said this Health Care Bill was attempting to do.  
2577 Is that correct?

2578 Mr. {Larsen.} Yes. This bill and--yes.

2579 Mr. {Gardner.} And I believe that Mr. Foster, with the  
2580 Medicare, in Medicare has testified before the House Budget  
2581 Committee that that would not be the case, that people would  
2582 not be able to keep the insurance they had. Is he wrong?

2583 Mr. {Larsen.} I have to confess that I am not familiar  
2584 with the testimony that Mr. Foster gave I guess recently in  
2585 front of the committee. I know that our view is absolutely  
2586 people can keep the care that they have. They are doing it  
2587 now. I think they will have in 2014.

2588 Mr. {Gardner.} So your Office is in charge of  
2589 implementation in many of these things that we went through,  
2590 and Mr. Burgess went through a long list with you, Mr.  
2591 Angoff, of what responsibility your Office had. You don't  
2592 communicate with the Chief Actuary of Medicare?

2593 Mr. {Larsen.} I am not saying that I do or don't. I am  
2594 just not familiar with the testimony that he gave, and I  
2595 apologize for this particular--

2596 Mr. {Gardner.} Has the Chief--had Medicare, has he  
2597 expressed concern that--he actually made two statements. He

2598 said that it probably won't lower costs and that it will not  
2599 allow people to keep their insurance. Have they expressed  
2600 that to you?

2601 Mr. {Larsen.} I haven't heard that from Mr. Foster,  
2602 but, again, we are 2 weeks into this transition so--

2603 Mr. {Gardner.} How long has your Office been open?

2604 Mr. {Larsen.} We have been in--

2605 Mr. {Angoff.} Since April 19. Rick Foster is the  
2606 Actuary for Medicare, not for the Office of Consumer  
2607 Information and Insurance Oversight.

2608 Mr. {Gardner.} Right, but do you not communicate with  
2609 Medicare in terms of what is happening with the Health Care  
2610 Bill? That is the Chief Actuary who said that these two  
2611 primary tenants of the Health Care Bill aren't going to come  
2612 true. That is pretty significant, is it not? Yes or no?

2613 Mr. {Larsen.} Like I said, I apologize. I would be  
2614 happy to go back and review his statements with regard to the  
2615 area. As Jay said, you know, he is over historically  
2616 Medicare, Medicare Actuary. We are the private health  
2617 insurance market coming into CMS, so we will go back and read  
2618 his testimony.

2619 Mr. {Gardner.} Mr. Angoff, I mean, that is a pretty  
2620 significant difference of opinion, isn't it?

2621 Mr. {Angoff.} Opinion is probably the right word.

2622 These, I mean, actuaries make predictions. Sometimes they  
2623 pan out, sometimes they don't.

2624 Mr. {Gardner.} And so you are just betting that he is  
2625 wrong and you are right?

2626 Mr. {Angoff.} Again, I haven't seen--I am unfamiliar  
2627 with the specific testimony that you are referring to.

2628 Mr. {Gardner.} So do you think he is wrong, that people  
2629 will get to keep the insurance that they currently have?

2630 Mr. {Angoff.} Well, people are getting to keep the  
2631 insurance they currently have. We have got to keep in mind  
2632 there are 50 million people today without any insurance at  
2633 all.

2634 Mr. {Gardner.} That is not what he said. He said that  
2635 it is doubtful that they won't be able to keep the insurance  
2636 that they have. That is his testimony before the House  
2637 Budget Committee. Was he wrong?

2638 Mr. {Larsen.} I don't know. I have got to take a look  
2639 at it.

2640 Mr. {Gardner.} Before you if you look into your  
2641 document file, you will notice that there is a letter from  
2642 the Aspen Skiing Company. It is in the document tab that you  
2643 should have. The document states at the bottom that  
2644 compliance with the PPACA would cause the cost to increase  
2645 substantially, which would render the plans unaffordable. Is

2646 that correct?

2647 Ms. {Voice.} Document 20 I believe.

2648 Mr. {Gardner.} I am sorry. Yes. Document 20.

2649 Mr. {Angoff.} I mean, I am sure it says what you say it  
2650 says.

2651 Mr. {Gardner.} And this company did receive a waiver.

2652 Is that correct?

2653 Mr. {Angoff.} I would have to look at the list. I can  
2654 do that if you want.

2655 Mr. {Gardner.} Well, they did, and so there are  
2656 seasonal employees at the Aspen Skiing Company. The letter  
2657 states that 800 full and part-time employees during the  
2658 summer go to 2,600 employees in the winter season--

2659 Mr. {Angoff.} Uh-huh.

2660 Mr. {Gardner.} --and that is what it talks about. So  
2661 in 2014, what happens to the Aspen Skiing Company? They will  
2662 go into the exchanges. Is that correct?

2663 Mr. {Larsen.} There will be a number of options for the  
2664 employees of the company, and they will have an opportunity  
2665 to get fuller health care coverage than they probably have  
2666 today.

2667 Mr. {Gardner.} And do you believe that the ski resort  
2668 knows what is best for their employees?

2669 Mr. {Larsen.} I don't understand your question.

2670 Mr. {Gardner.} I mean, do you think that the operator  
2671 of a ski resort is better equipped to determine the health  
2672 care needs of their employees than the Federal Government?

2673 Mr. {Larsen.} Well, I don't know who is best equipped  
2674 to make that decision. I know that--

2675 Mr. {Gardner.} So the answer is, no, you think the  
2676 government may be better equipped than the Aspen Skiing  
2677 Company?

2678 Mr. {Larsen.} No. I don't think that is what I am  
2679 saying. I think what we want is we want people to have full  
2680 coverage, and my guess is that the employees of Aspen would  
2681 like to have full coverage as compared to limited coverage.

2682 Mr. {Gardner.} So the letter says the plans are  
2683 specifically designed to meet the needs of seasonal and part-  
2684 time employees.

2685 Mr. {Larsen.} Right. That is typical of the applicants  
2686 that we get for annual limits waivers. This is probably a  
2687 very typical application. It is part-time coverage, seasonal  
2688 coverage.

2689 Mr. {Gardner.} So they might be wrong, though? I mean,  
2690 we think the Federal Government might know better how to  
2691 provide coverage for those employees?

2692 Mr. {Larsen.} No. I don't think that is what we are  
2693 saying.

2694 Mr. {Stearns.} The gentleman's time has expired.

2695 Dr. Gingrey, you are recognized for 5 minutes.

2696 Dr. {Gingrey.} Mr. Chairman, thank you, and to the  
2697 witnesses let me apologize for not being here earlier. We  
2698 have got concurrent subcommittee hearings, both extremely  
2699 important, and this obviously is an extremely important  
2700 hearing for me as a position member of the subcommittee and  
2701 obviously the issue of the area which you have jurisdiction  
2702 over regarding the Patient Protection Affordable Care Act is  
2703 extremely important to all committee members.

2704 I think I will focus my attention on the Class Act. I  
2705 don't know whether that has come up in--from previous  
2706 questions, but I am very concerned about the Class Act,  
2707 particularly in reference to information that has come out  
2708 recently in regard to the unsustainability, the non-viability  
2709 of the program as it is designed in regard to the monthly  
2710 premiums and the benefit package.

2711 In testimony before the Finance Committee yesterday, in  
2712 fact, Secretary Sebelius admitted that long-term care  
2713 insurance program created by Obama Care called the Class Act,  
2714 is totally unsustainable I think she put it. This statement  
2715 mirrors similar remarks made by the Chief Actuary of CMS,  
2716 Rick Foster, when he testified before the House Ways and  
2717 Means Committee a couple of weeks ago. In fact, the

2718 President's Deficit Reduction Commission even cited the need  
2719 to dramatically change or even repeal the Class Act because  
2720 they also found the program completely unsustainable as  
2721 currently proposed.

2722         Mr. Larsen, the President's budget proposal asks for  
2723 \$13.4 million for an IT system and another \$93.5 million for  
2724 information, education in order to sign American workers up  
2725 for the Class Act.

2726         So yes or no, if you will. In light of the Secretary's  
2727 statement and those posted on your website, do you believe  
2728 the Administration should provide proof to the American  
2729 people before your agency begins signing them up for the  
2730 Class Program?

2731         Mr. {Larsen.} Well, if I could answer this way, and I  
2732 hope you will accept my apology, the Class Act is not  
2733 actually part of CCIIO or OCCIIIO, so we don't oversee the  
2734 Class Act. In fact, I mean, I am aware of the issues that  
2735 you raised, and I know the Secretary spoke about this  
2736 yesterday, but it is not in the purview of the--

2737         Dr. {Gingrey.} Do you have an opinion on that? Can you  
2738 answer that question yes or no?

2739         Mr. {Larsen.} Well, I am not familiar with the issues  
2740 surrounding--

2741         Dr. {Gingrey.} All right. Mr. Angoff, do you have an

2742 opinion?

2743 Mr. {Angoff.} No, I don't. The Class Act is part now  
2744 of the Administration on Aging, and so it is under their  
2745 jurisdiction.

2746 Dr. {Gingrey.} Well, given the Secretary's dire warning  
2747 and should the Secretary not listen to reason, will the  
2748 Center for Consumer Information and Insurance Oversight, that  
2749 is you. Right? Include a disclaimer in its education  
2750 material to workers stating clearly that the Class Act is not  
2751 sustainable? It is unsustainable?

2752 Mr. {Larsen.} I would be happy to look at whatever  
2753 proposal there is on that.

2754 Dr. {Gingrey.} Again, you are punting on this.

2755 Mr. {Larsen.} I am punting.

2756 Dr. {Gingrey.} Mr. Angoff, would you like to take the  
2757 ball and run with it?

2758 Mr. {Angoff.} No, I wouldn't.

2759 Dr. {Gingrey.} You are also a punter. Well, look, let  
2760 me just comment then, Mr. Chairman, in the remaining time  
2761 that I have left since these gentlemen have stated that this  
2762 is not under their purview and they don't want to express an  
2763 opinion, and I certainly will express an opinion.

2764 You know, back in, I guess it was in the late '80s when  
2765 we had the bill that was enacted, catastrophic coverage under

2766 Medicare forced on the American people, and the seniors just  
2767 went nuts when they found out what it was going to cost them  
2768 in regard to their part B premiums, and then Ross Stankowsky  
2769 I think almost had his automobile destroyed in downtown  
2770 Chicago with umbrellas over that bad piece of legislation.

2771         This is the kind of thing that--why we feel so important  
2772 to have the oversight on every aspect of this bill, all 2,400  
2773 pages of it, PPACA, Obama Care, however you want to call it,  
2774 Patient Protection Affordable Care Act, but this is one I  
2775 think that is very important, even though it is not under  
2776 your authority specifically, that the committee, the  
2777 subcommittee understands that something like the Class Act,  
2778 it was just part of so much of this bill that was thrown  
2779 together just to get it passed so that hopefully after people  
2780 read the bill they would come to like it.

2781         They are not going to come to like the Class Act, and  
2782 hopefully we are not going to spend \$100 million putting it  
2783 into effect.

2784         Mr. Chairman, I will yield back.

2785         Mr. {Stearns.} Thank the gentleman. The gentlelady  
2786 from Tennessee is recognized for 5 minutes.

2787         Mrs. {Blackburn.} Thank you, Mr. Chairman. I want to  
2788 go back to Mr. Larsen's answer to Mr. DeGette.

2789         You continue to talk about, well, come 2014, you are

2790 going to have all of these wonderful benefits, it is going to  
2791 be better, it is going to be fuller coverage, and, sir, I  
2792 just have to tell you this is our concern. We have lived  
2793 through this in Tennessee, and it does not work. You cannot  
2794 incentivize use, and there is no way to pay for it. Doing  
2795 this investment on the front end and expecting to get savings  
2796 on the back end, it doesn't work. And I have got plenty of  
2797 charts here that show you what happened in our State.

2798         Now, what you have not been able to define for me is how  
2799 do you plan to pay for it? What is going to happen to these  
2800 innovative plans like CoverTN when you get to 2014? How, you  
2801 know, you talk about this exchange market, but I have to tell  
2802 you, sir, unless you can point to a pilot project that has  
2803 worked, the examples that are out there now do not work. You  
2804 are speaking on theory. Is that not correct? Your statement  
2805 to me was Obama Care would work. This plan would work, but  
2806 you have no data to back it up. You have no analysis that  
2807 says, we ran this program, and we looked at it, and this  
2808 worked.

2809         So, you know, we are looking at this, and we are kind of  
2810 shaking our heads. In 2014, the CoverTN Program would cease  
2811 to exist. Is that not correct?

2812         Mr. {Larsen.} If I can respond this way, we know the  
2813 system prior to the passage of this bill was broken. Fifty

2814 million people without insurance. I think there were--

2815 Mrs. {Blackburn.} Sir, I am not even going to--I am  
2816 going to jump in, and it is not out of disrespect. It is  
2817 just that you are talking apples and oranges. There are  
2818 reforms that need to be placed. People want them to be in  
2819 place as free market, patient-centered reforms. When you  
2820 have tried a public option health care system, see, you are  
2821 avoiding my question. You cannot give me an example of where  
2822 public option health care has worked successfully, and that  
2823 is because you don't got one.

2824 Mr. {Larsen.} Well--

2825 Mrs. {Blackburn.} As they say in Tennessee. You just  
2826 don't. Let me go onto something else.

2827 When we are looking at the Center moving from HHS to  
2828 CMS, when was that--why was the decision made? When was that  
2829 decision made?

2830 Mr. {Angoff.} I am sorry. When was it made?

2831 Mrs. {Blackburn.} Why and then when?

2832 Mr. {Angoff.} Oh. The reason it was made is that it  
2833 made sense to have a separate organization reporting directly  
2834 to the Secretary that had to do a lot of things quickly as an  
2835 independent organization. Once all--

2836 Mrs. {Blackburn.} Okay. Who was involved in the  
2837 decision making?

2838 Mr. {Angoff.} Sorry?

2839 Mrs. {Blackburn.} Who? Who was involved in the  
2840 decision-making process, sir?

2841 Mr. {Angoff.} Several people at HHS. I don't know.

2842 Mrs. {Blackburn.} Several people at HHS. Would you  
2843 please supply me with a list of those that were involved in  
2844 that decision making?

2845 Mr. {Angoff.} Yes, I will.

2846 Mrs. {Blackburn.} Thank you very much. And why did you  
2847 not start the Office in CMS?

2848 Mr. {Angoff.} Because it was--we had a lot to get done  
2849 in a very short time, we needed a mechanism to do it, we  
2850 thought--

2851 Mrs. {Blackburn.} Okay.

2852 Mr. {Angoff.} --the best way to do it would be to have  
2853 an independent organization.

2854 Mrs. {Blackburn.} Okay.

2855 Mr. {Angoff.} Now that it has mature and all the major  
2856 regs--

2857 Mrs. {Blackburn.} All right, and then when did you  
2858 decide to move it?

2859 Mr. {Angoff.} In December, late December.

2860 Mrs. {Blackburn.} Okay. Mr. Chairman, I would like to  
2861 submit for the record the letter from Secretary Sebelius on

2862 January 5, 2011, writing to inform that they were moving it  
2863 to CMS. I find that date to be a little bit curious.

2864 Mr. {Stearns.} Without objection, so ordered.

2865 [The information follows:]

2866 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
2867 Mrs. {Blackburn.} Thank you, sir. Was any discussion  
2868 had about the fact that by moving the Center into CMS where  
2869 funding is directed for Medicare and Medicaid that it would  
2870 either better protect or give less subject to oversight or be  
2871 harder to de-fund that, and would it allow you to run that  
2872 office more along the vein of the 1115 Waiver Program that  
2873 Tennessee operated TennCare under which put the feds in  
2874 control of how a State would deliver their program and  
2875 basically took those State lawmakers out of the process,  
2876 basically handed State lawmakers the bill, and said, here you  
2877 go. The feds say you have to fund it.

2878 You know, I find it so curious you did this, and then I  
2879 look back at what has transpired in our State and when I was  
2880 in the State Senate there, and we were trying to figure out  
2881 how to pay for this program and then I went back and read the  
2882 statement from our former Governor who said this would be the  
2883 mother of all unfunded mandates, and you know what, I am  
2884 beginning to think they are about right on that.

2885 What was your decision for moving that?

2886 Mr. {Angoff.} I am sorry. What was the question?

2887 Mrs. {Blackburn.} What was your decision matrix for  
2888 moving it? Why did you move it?

2889 Mr. {Angoff.} There are efficiencies to be gained by

2890 merging the two organizations, functions such as--

2891 Mrs. {Blackburn.} I thought you just told me you wanted  
2892 it over there because it would be an independent organization  
2893 and not tied to HHS.

2894 Mr. {Angoff.} At the beginning.

2895 Mrs. {Blackburn.} Did it have anything to do with  
2896 funding?

2897 Mr. {Angoff.} No.

2898 Mrs. {Blackburn.} Could it easier to protect? Would it  
2899 eliminate oversight? Would it tie the hands of State  
2900 Legislators?

2901 I yield back.

2902 Mr. {Angoff.} No. It was a question of efficiencies.  
2903 There are overlapping functions, budget grant, personnel,  
2904 external affairs, IT. There are--now that the regs have been  
2905 adopted, the programs established, there are efficiencies to  
2906 be gained by merging the two organizations.

2907 Mr. {Stearns.} I thank the gentlelady. The gentleman  
2908 from Virginia is recognized for 5 minutes.

2909 Ms. {DeGette.} Mr. Chairman, before the gentleman--

2910 Mr. {Stearns.} Sure. Point of--

2911 Ms. {DeGette.} --I would just like to note--move to  
2912 strike the last--

2913 Mr. {Stearns.} Right. Or a question of personal

2914 privilege.

2915 Ms. {DeGette.} I just want to note that we have now had  
2916 two rounds of questions--

2917 Mr. {Stearns.} That is correct.

2918 Ms. {DeGette.} --and the Chairman is proceeding to the  
2919 third round of questioning.

2920 Mr. {Stearns.} That is correct.

2921 Ms. {DeGette.} I object to that because I believe these  
2922 witnesses have thoroughly and adequately answered all of the  
2923 questions put to them regarding their agency and the waivers  
2924 that have been granted, and I think now what we are moving  
2925 into is the majority is using this hearing as a way to attack  
2926 the Affordable Care Act, and frankly, I think it is abusive  
2927 to the witnesses.

2928 Having registered that objection, you are the Chairman.  
2929 You are going to do what you want, and I will reserve any  
2930 time I have in this third round of questioning until the  
2931 conclusion.

2932 Mr. {Stearns.} And I thank the gentlelady. You know,  
2933 this is our first really hearing. We have only been here 2-  
2934 1/2 hours for this huge government new program, so I think  
2935 having members having a chance for the first time to do this  
2936 is very reasonable, and I think the witnesses are doing an  
2937 adequate job as best they can to explain it, and I think it

2938 is worthwhile to members who perhaps had not been able to ask  
2939 questions, come back, and so we are going to continue.

2940 So, Mr. Griffith.

2941 Mr. {Griffith.} Mr. Chairman, if I might--

2942 Mr. {Stearns.} Sure.

2943 Mr. {Griffith.} --just make a point of personal  
2944 privilege--

2945 Mr. {Stearns.} Yes.

2946 Mr. {Griffith.} --as well, it is far less abusive to  
2947 not make the witnesses listen to opening statements from  
2948 every member of the committee as we did during the last  
2949 Congress.

2950 I will yield.

2951 Ms. {DeGette.} I will agree with that.

2952 Mr. {Stearns.} I think Ms. DeGette will agree with  
2953 that.

2954 The gentleman from Virginia.

2955 Mr. {Griffith.} Just to note, this is only my second  
2956 time, but anyway--no, no. I was here. I just didn't get my  
2957 first and second--I was here. This is just my second,  
2958 though, and I am the last one, but it is only my second time.

2959 We talked earlier, Mr. Angoff, about the \$33.4 million  
2960 in expenses and that that came out of the \$1 billion  
2961 appropriated or that was mentioned in the Act.

2962 Mr. {Angoff.} Yes, sir.

2963 Mr. {Griffith.} And at one point in the questioning  
2964 with someone else you indicated that there were three sources  
2965 of money from which you could get your funds, the \$1 billion  
2966 in the Act, the high-risk area, and the early retirees. And  
2967 when I asked the question, and I am not trying to make any  
2968 accusation, I am just saying that you said there was \$33.4.  
2969 Did that include all the pots of money or just the billion?

2970 Mr. {Angoff.} No. That \$33.4 is only out of the  
2971 billion.

2972 Mr. {Griffith.} What monies came out of the other two  
2973 sources?

2974 Mr. {Angoff.} There is additional money coming out of  
2975 those two sources, and I don't have that with me.

2976 Mr. {Griffith.} Can you get that for us?

2977 Mr. {Angoff.} Absolutely.

2978 Mr. {Griffith.} Okay, and I do appreciate that there  
2979 were additional monies.

2980 Now onto the \$1 billion it is interesting because the  
2981 waiver program, can you tell me how much just the waiver  
2982 program costs?

2983 Mr. {Angoff.} No, I can't.

2984 Mr. {Larsen.} I don't have that broken out by the staff  
2985 that work on the waiver program compared to the entire \$33

2986 million. We can, you know, try and get that to you.

2987           Mr. {Griffith.} If you can do that for me, I would  
2988 appreciate it, and here is the point, and I touched on this  
2989 in my previous questioning. We have got this giant Act.  
2990 Now, while it does have the catchall that the Secretary has  
2991 the authority to, you know, implement, and it has the \$1  
2992 billion in the back of it, it doesn't actually have waiver in  
2993 here.

2994           And I guess my problem is is that one of the things that  
2995 I fear is is that part of the distrust that people have in  
2996 general is that when you have a gigantic Act it is hard to  
2997 figure it out, and then you can't find things, and it looks  
2998 like to me what we have done is we have built a program based  
2999 on the Secretary's authority to try to implement the law and  
3000 then we have bootstrapped back in that she can use the \$1  
3001 billion to implement the law, but we have got layer upon  
3002 layer of interpretation, and that might be okay if this was a  
3003 5-page bill and you could say, well, we couldn't get it all  
3004 in here, but I mean, we have got this, you know, it is a  
3005 textbook in length. It is 1,000 pages this way. It was more  
3006 than 2,000 pages when it was in bill form.

3007           And so I just have great concerns that we are, you know,  
3008 building assumptions on top of assumptions, and it may very  
3009 well be the fault of Congress for not having been specific in

3010 past years going back not just during this bill but many  
3011 other bills, but it seems to me that we are the ones that  
3012 ought to be making the laws and that if there is something  
3013 that is unclear, it ought to come back to the Legislative  
3014 Branch. In this case that would be United States Congress.

3015 And I just wonder if you had any comments on that.

3016 Mr. {Angoff.} Just this. On the waiver issue there is  
3017 language there that makes it clear that, statutory language,  
3018 not regulatory language, language in the statute that says  
3019 that the restricted annual limits should be interpreted in a  
3020 way so that people can keep their coverage. Everything that  
3021 we have done is done pursuant to specific language in the  
3022 statute.

3023 Mr. {Griffith.} Well, and I guess the concern that I  
3024 have is we are spending money to notify folks of part of the  
3025 program, but we are not spending money yet to let folks know  
3026 about the waivers, as I mentioned earlier, and while we have  
3027 given McDonald's a waiver, I don't know how they work their  
3028 system, but I have a letter from a constituent of mine who  
3029 owns several Burger King establishments. He is panicked  
3030 about how this is going to impact him, and I, of course, as  
3031 soon as I get back to the office I will notify him of the  
3032 waiver program. I am not sure he knows about that.

3033 And so, you know, that is what happens when you make

3034 things so complex, and you can't find it in the written word.  
3035 You have to go to an assumption made on an assumption made by  
3036 an attempt to try to implement something that apparently the  
3037 legislation wasn't crafted as well as maybe it should have  
3038 been. I wasn't here, so I, you know, didn't take part in  
3039 that, but it just seems to me that there is an awful lot of  
3040 confusion out there, and we are spending money on some things  
3041 based on assumption what we are supposed to do, and we are  
3042 not spending it on others. And it would seem to me that we  
3043 would want consumers to be aware of the waivers as well as to  
3044 be aware of knowing how they get into any of the other  
3045 programs.

3046 I yield back the remainder of my time, Mr. Chairman.

3047 Mr. {Stearns.} I thank the gentleman. I dare say that  
3048 if you took an ad and put it in the Final Four basketball,  
3049 announcing to the American public that they can receive  
3050 waivers from the Obama Care, I think you would be offering  
3051 waivers well in adjustment of 915, because I think as the  
3052 gentleman from Virginia had indicated, a lot of people don't  
3053 know that you can get these waivers, and they are not going  
3054 to your website.

3055 But lo and behold if you told all 50 States in a very  
3056 clear manner and you told all the corporations in America  
3057 that they could get a waiver, I think everybody would do

3058 that, and they would want to waiver every year, and they  
3059 would want to waiver in 2014.

3060 The Ranking Member mentioned about the new tools coming  
3061 on in 2014, and Mr. Larsen consumed a little bit of time  
3062 talking about the ranges of these new benefits, but I guess,  
3063 Mr. Larsen, who is going to pay for those benefits? Because  
3064 the benefits are all inclusive, and lo and behold, the  
3065 taxpayers or the corporations are going to have to charge  
3066 more money.

3067 And she also indicated that she was concerned about  
3068 recently that a lot of sick children were not being insured,  
3069 but--before Obama Care, but the reason a lot of people now  
3070 are pulling back is because, frankly because they are  
3071 concerned about these benefits going from \$750,000 up to \$1.2  
3072 and \$2.2. I mean, that is a little bit of a chilling factor  
3073 for a lot of companies, so they are deciding that they don't  
3074 want to insure, and I don't think they know about the  
3075 waivers.

3076 I guess I want to ask you a little bit of question, Mr.  
3077 Larsen, about some of the spending here. How much money in  
3078 total has HHS spent so far in setting up and operating your  
3079 Office? Can you just give me an estimate? Just approximate.

3080 Mr. {Larsen.} Yeah, and I think Jay touched on this  
3081 earlier, of the \$1 billion that was appropriated at the

3082 outset of the implementation of the ACA--

3083 Mr. {Stearns.} So it is about a billion dollars?

3084 Mr. {Larsen.} Well, that--no, no, no.

3085 Mr. {Stearns.} Okay.

3086 Mr. {Larsen.} Thirty-three million is the answer--

3087 Mr. {Stearns.} Okay.

3088 Mr. {Larsen.} --spending to date for OCCIO, now CIO.

3089 Mr. {Stearns.} So \$33 billion--

3090 Mr. {Larsen.} Million.

3091 Mr. {Stearns.} --from all sources.

3092 Mr. {Larsen.} I am sorry. Did I say billion?

3093 Mr. {Stearns.} Billion?

3094 Mr. {Larsen.} No, \$33 million--

3095 Mr. {Stearns.} Thirty-three million.

3096 Mr. {Larsen.} --out of the \$1 billion.

3097 Mr. {Stearns.} All right. I respect that. Okay. Now,

3098 I think our staff is a little non-pulse here because \$33

3099 million seems like a pretty small amount. Does this include

3100 all the sources of funding?

3101 Mr. {Larsen.} Well, that is essentially to operate the

3102 252 and the programs. I think this was earlier--

3103 Mr. {Stearns.} Two hundred and fifty-two employees out

3104 of Bethesda?

3105 Mr. {Larsen.} Right.

3106 Mr. {Stearns.} Are they still out in Bethesda?

3107 Mr. {Larsen.} Yes.

3108 Mr. {Stearns.} Okay. You seem a little puzzled. Have  
3109 they moved since you left? You were a little puzzled.

3110 Mr. {Larsen.} I didn't know whether you knew something  
3111 I didn't. No. They are still out there.

3112 Mr. {Stearns.} Okay. How did HHS come up with \$465  
3113 million for implementation of the President's budget for HHS?  
3114 Do you know that?

3115 Mr. {Larsen.} Well, I know--

3116 Mr. {Stearns.} Either one of you know that?

3117 Mr. {Larsen.} --generally the breakdown because I know  
3118 which part is attributable to the CCIIO-related activities.  
3119 There is about \$94 million for oversight and consumer  
3120 information, which includes the Healthcare.gov website, which  
3121 is a fantastic consumer tool. People can go in today and  
3122 find out what policies are available to them, what coverages,  
3123 what options are available. So it includes that money.  
3124 There is consumer assistance, setting up the appeals unit  
3125 again, so consumers that have denied, they are going to have  
3126 an appeal process.

3127 So there is \$94 million associated with all of those  
3128 activities and then of the \$400 million figure you mentioned  
3129 there is exchanges. We are now standing up the exchanges.

3130 We have got IT, programs that we have got to get up and  
3131 running.

3132 Mr. {Stearns.} Uh-huh.

3133 Mr. {Larsen.} So I think that is the composition of the  
3134 request in the President's budget.

3135 Mr. {Stearns.} You asserted that these waivers are  
3136 necessary between now and 2014, to help people retain their  
3137 coverage until they have access to comprehensive coverage  
3138 through the exchange, but isn't it true that these plans and  
3139 employers have access to comprehensive coverage now, but it  
3140 is just too expensive and so that the employees themselves  
3141 choose a lower-cost plan?

3142 Mr. {Larsen.} Well, it is a good question. I don't--it  
3143 is not always clear why employers off different levels of  
3144 coverage and certainly in some cases they are aware that  
3145 their employees can only afford because they may be part-time  
3146 workers or seasonal workers, can only afford benefit packages  
3147 that have limited benefits.

3148 So, you know, that is what we know today. There is a  
3149 range of options--

3150 Mr. {Stearns.} Yes.

3151 Mr. {Larsen.} --but sometimes many of them aren't  
3152 affordable. In 2014, I think we are going to have a better  
3153 set of options available for employees and employers.

3154 Mr. {Stearns.} I guess the question is do you and  
3155 perhaps Mr. Angoff think that the comprehensive coverage that  
3156 we mandated in 2014, through the exchanges or offered by  
3157 employers, do you think they will be less expensive and more  
3158 affordable than it is today? I mean, based upon what we are  
3159 saying and all these waivers and--

3160 Mr. {Larsen.} Yeah. You know, there is--

3161 Mr. {Stearns.} Don't you think--

3162 Mr. {Larsen.} --offsetting factors at play because when  
3163 you bring, when you expand the insurance pool, you are going  
3164 to bring down costs because now you have a full pool, and the  
3165 exchanges also reduce administrative expenses because all the  
3166 time and money that insurance companies spend today  
3167 underwriting people and trying to figure out how not to  
3168 provide coverage with the--without having the pre-existing  
3169 condition, having a pre-existing condition exclusion ban, so  
3170 there are a number of factors that help to bring the cost  
3171 down in 2014. I think that was referenced even in the--

3172 Mr. {Stearns.} Mr. Larsen, in all deference to you, you  
3173 say these based upon your opinion, that you think that it  
3174 will bring the cost down and so forth, but if you look at  
3175 countries that have a government universal health care plan,  
3176 the costs have not come down, and in fact, the costs have  
3177 gone up, and many countries now are trying to get from out--

3178 from underneath the universal government health care. And  
3179 there is a long line.

3180 So is there any study or any analysis that you have done  
3181 to corroborate what you have just indicated that you think--

3182 Mr. {Larsen.} Well, I know--

3183 Mr. {Stearns.} --through this universal magic wand that  
3184 everybody is going to get cheaper and more coverage.

3185 Mr. {Larsen.} --even--back to your earlier question--

3186 Mr. {Stearns.} Because, see, basically, I mean, in my  
3187 opinion you are putting price controls by--people are asking  
3188 for waivers because you are putting in price controllers.  
3189 You are saying basically these people got to comply with this  
3190 or else, and those people are saying we need waivers.

3191 So it a form of price control. You might not agree, but  
3192 when you do that, then what happens is you don't have the  
3193 opportunity for the market to bring it down because the  
3194 government is putting all these mandates down.

3195 So I am just philosophizing--

3196 Mr. {Larsen.} Well, I think--

3197 Mr. {Stearns.} So the question is do you have an  
3198 analysis to show, to back up, corroborate what your analysis  
3199 is?

3200 Mr. {Larsen.} Well, here is what we do now.

3201 Mr. {Stearns.} Do you have an analysis?

3202 Mr. {Larsen.} Consulting firms like Hewitt and Mercer  
3203 looked at the impact of the ACA on employer-based coverage  
3204 and found the impact might be in the 1 to 2 percent range,  
3205 because most coverage is meeting the requirements of the ACA,  
3206 but we want to raise the bar for everyone--

3207 Mr. {Stearns.} Okay.

3208 Mr. {Larsen.} --so the financial impact on premiums has  
3209 been in the 1 to 2 percent range, and that is offset by the  
3210 benefits that consumers get. They don't have cost sharing  
3211 now for preventative services. So their out-of-pocket  
3212 expense are much less now than they were before the passage  
3213 of the--

3214 Mr. {Stearns.} All right. My time has expired.

3215 Dr. {Burgess.} Thank you. Just a couple loose ends to  
3216 tie up, and it may not even take the full time.

3217 There was some discussion, Mr. Stearns, and you with  
3218 Ranking Member DeGette about new tools versus new benefits.  
3219 New tools, one thing, new benefits certainly are a cost  
3220 driver, so when you flip the switch in 2014, and all the  
3221 lights do come on on all the new benefits, it is--there is  
3222 going to be increased cost.

3223 So have you done an economic analysis on what is going  
3224 to be the effect on companies that are having difficulty  
3225 meeting the financial obligation today and require a waiver,

3226 they have got new tools or new benefits, which means new  
3227 costs. Have you done an economic analysis, or can you point  
3228 us toward a single study that shows how that is going to  
3229 work?

3230 Mr. {Larsen.} I mean, I think even--I know it is  
3231 subject to disagreement, but the CBO estimated that the bill  
3232 is going to lower overall health care costs for many of the  
3233 reasons that we have talked about.

3234 Dr. {Burgess.} Well, okay. So they did, and that the  
3235 point of some disagreement.

3236 Actually, I had a resolution of inquiry the last  
3237 Congress and had the Democratic Chairman accepted it. We  
3238 could have had Mr. Foster in to talk about just that, because  
3239 I was concerned that Congress voted on a bill without knowing  
3240 the actual cost. Mr. Foster--Mr. Elmendorf had dramatically  
3241 different cost estimates, about a \$450 billion spread over 10  
3242 years as I recall, and that was pretty significant.

3243 But we never got an opportunity to do that. Perhaps,  
3244 Mr. Chairman, we will get to do that make up.

3245 Now, Mr. Angoff, you actually said that I was  
3246 mischaracterizing things when I said that the Office of  
3247 Consumer Information and Insurance Oversight skimmed from the  
3248 appropriations, the \$1 billion for appropriations when you  
3249 were setting up the Act. So let me rephrase my question so

3250 it won't be a mischaracterization.

3251           Would it be inaccurate for anyone to say that, for  
3252 example, \$5 billion was set aside for subsidizing the high-  
3253 risk pools?

3254           Mr. {Angoff.} No. That is accurate.

3255           Dr. {Burgess.} But because you used some of that figure  
3256 for your Office for start-up costs, then the entire \$5  
3257 billion was not available, was it?

3258           Mr. {Angoff.} And that is the intent because the  
3259 language says \$5 billion is authorized to carry out the  
3260 provision.

3261           Dr. {Burgess.} Oftentimes we have a limiting amount  
3262 that only 5 percent can be used for administrative function,  
3263 but there was no such limitation in this case, was there?

3264           Mr. {Angoff.} That is right.

3265           Dr. {Burgess.} So, again, I point to the fact that it  
3266 would be great to have that budgetary information, that  
3267 detailed budgetary information.

3268           Now, you were hired a year ago as we have already  
3269 established, and you were involved in the outline of the  
3270 development of the creation of OCCIIIO, the predecessor of  
3271 CCIIO or whatever it is. I get confused. Who appointed you?

3272           Mr. {Angoff.} The Secretary.

3273           Dr. {Burgess.} And who advised the Secretary on the

3274 creation of the Office of Consumer Information and Insurance  
3275 Oversight?

3276 Mr. {Angoff.} I did not.

3277 Dr. {Burgess.} Do we know who?

3278 Mr. {Angoff.} I don't know.

3279 Dr. {Burgess.} You had a Deputy at the time. Was the  
3280 Deputy involved in providing that advise to the Secretary?

3281 Mr. {Angoff.} My Deputy?

3282 Dr. {Burgess.} Yes.

3283 Mr. {Angoff.} Not to my knowledge.

3284 Dr. {Burgess.} Well, who decided that it was a good  
3285 idea to put it in the Secretary's office?

3286 Mr. {Angoff.} I don't know.

3287 Dr. {Burgess.} Well, we have already established that  
3288 there was a reason then to move it to CMS. Mr. Larsen, can  
3289 you help us with that just a little bit more why it was so  
3290 important to have it freely mobile within HHS at one point  
3291 and then suddenly bring it under the control of CMS?

3292 You know, I got to tell you with all due respect it does  
3293 look like we were trying to move things around, and it was  
3294 because this committee indirectly started asking questions  
3295 about what was happening and beginning to shine a little  
3296 light on the activities, because I got to tell you, most  
3297 members of Congress were blissfully unaware, Mr. Angoff, of

3298 your activities last fall.

3299 Mr. {Larsen.} I would characterize it this way. I hope  
3300 this is helpful. It is kind of the difference between a  
3301 startup and then running the operation. They had to stand  
3302 this thing up from scratch.

3303 Dr. {Burgess.} And I don't dispute that, but it is just  
3304 interesting that after the questions started to get asked  
3305 when the discussion was made--

3306 Mr. {Larsen.} They weren't connected. We concluded  
3307 that--

3308 Dr. {Burgess.} Let me ask you this, Mr. Angoff. We had  
3309 a nice discussion in November, and I was concerned, you know,  
3310 if I got a constituent back home that says, well, I want one  
3311 of these waivers, how do I get one? And it actually wasn't  
3312 available on the website that, at that time. It was shortly  
3313 after our visit that that information did become available on  
3314 the website, so I am greatly appreciative that you did that,  
3315 but as you were developing this, why was there not more  
3316 thought given to how do we get this out to just the regular  
3317 guy on the street who may run a small business or a  
3318 restaurant or may need this waiver?

3319 Mr. {Angoff.} Well, I mean, we did give it some  
3320 thought. As you said, it is on the website now. It is a  
3321 transparent process, and we think it has worked well.

3322 Dr. {Burgess.} But, again, this was all in the works  
3323 for some time, and it just strikes me as odd that you  
3324 wouldn't have had that one simple feature out there early on  
3325 to make this more accessible to more people. Obviously it is  
3326 a very popular waiver program, very popular, and many people  
3327 want to participate in it, and again, I dare say they will  
3328 still want to after 2014.

3329 Mr. Chairman, I yield back.

3330 Mr. {Stearns.} All right. Mr. Griffith from Virginia  
3331 is recognized for 5 minutes.

3332 Mr. {Griffith.} Thank you, Mr. Chairman. Let me ask  
3333 you this in regard to the shift. I think I heard earlier  
3334 that part of the reason for that was that there were would be  
3335 efficiencies gained. I have also heard there were 252  
3336 employees. I am wondering how many employees have been let  
3337 go or been transferred subsequent to the shifts in the  
3338 attempt to make efficiencies.

3339 Mr. {Larsen.} Sure. Well, I guess a couple of answers.  
3340 One, we are in a 60 to 90-day transition period. We got a  
3341 transition team from CMS and a transition team from our shop  
3342 working together to nail down these efficiencies. We don't  
3343 anticipate laying people off, but as Jay mentioned there is  
3344 certainly areas where we don't--we are not going to staff up  
3345 in the future, for example, and we have got to figure out

3346 what exactly that staffing level is going forward.

3347           So we are right in the middle of that process from a  
3348 staffing perspective.

3349           Mr. {Griffith.} So you made the move for the  
3350 efficiencies, but we don't know what--how much you are going  
3351 to--

3352           Mr. {Larsen.} Well--

3353           Mr. {Griffith.} --how many employees you are going to  
3354 be able to save, how many spots you are going to be able to  
3355 reduce?

3356           Mr. {Larsen.} Well, let me rephrase that. Yeah. I am  
3357 not--we are not talking about necessarily reducing meaning  
3358 laying people off. I mean, we have told our people we are  
3359 not laying people off, but as attrition comes in and as we  
3360 get efficiencies with the budget people and with the  
3361 legislative office and with the programs office, there is--

3362           Mr. {Griffith.} So you are planning to do it through  
3363 attrition, but do you have any idea what your target--how  
3364 many--

3365           Mr. {Larsen.} That is--no.

3366           Mr. {Griffith.} --spots you wish to get of?

3367           Mr. {Larsen.} That is what we are working--we are  
3368 literally as we speak working through the exact components.

3369           Mr. {Griffith.} And I am new to the Federal Government

3370 but wouldn't it make sense to have some idea of what--how  
3371 many folks or how many spots you were going to eliminate if  
3372 the reason for shifting was efficiencies--

3373 Mr. {Larsen.} Well, we didn't--

3374 Mr. {Griffith.} --before you made the shift?

3375 Mr. {Larsen.} --go in with a hard and fast number about  
3376 what we want to save. We clearly understood as we were  
3377 continuing to stand up OCCIO and we needed to have functions  
3378 here, we need to have functions here, we need to have  
3379 functions here, and then CMS has those functions and those--

3380 Mr. {Griffith.} Let me shift gears.

3381 Mr. {Larsen.} Sure.

3382 Mr. {Griffith.} Isn't it true that the employers' plans  
3383 which have received these waivers are likely to drop coverage  
3384 for their employees is no longer affordable in 2014, finding  
3385 it cheaper to pay the penalty, if applicable?

3386 Mr. {Larsen.} That--I don't think so.

3387 Mr. {Griffith.} Well, the CBO estimates approximately  
3388 three million employees will be dropped by their employers  
3389 into the exchanges, and in that circumstance won't the  
3390 individuals be forced to buy a more comprehensive plan at a  
3391 greater cost to themselves and at a greater cost to the  
3392 taxpayer if that premium then has to be subsidized through  
3393 the exchange?

3394 Mr. {Larsen.} Well, they will have an option for better  
3395 coverage, and if they meet the guidelines for subsidies, then  
3396 they will have the opportunity to get that coverage, but that  
3397 is paid through the various sources as you know, the funds,  
3398 the Affordable Care Act.

3399 Mr. {Griffith.} But isn't it correct that if there are,  
3400 in fact, three million employees that are dropped, that that  
3401 is going to put some burden onto the exchanges and the  
3402 subsidies?

3403 Mr. {Larsen.} Well, it means there would be more people  
3404 there, but I think as we have talked about there is a number  
3405 of aspects of the ACA that reduce costs overall, so I think  
3406 those costs are going to be manageable and affordable for  
3407 people in those policies.

3408 Mr. {Griffith.} But as Mr. Angoff said earlier when he  
3409 didn't like somebody's opinion, it is just--actuaries just  
3410 give you opinions and then you have to see if they are right.  
3411 This would also be the case with what you have just said. We  
3412 have to see whether or not those actuaries are right, and  
3413 many times they are not. Isn't that correct?

3414 Mr. {Larsen.} Well, if you have two actuaries, there is  
3415 always the possibility--

3416 Mr. {Griffith.} One of them is going to be wrong.

3417 Mr. {Larsen.} Right.

3418 Mr. {Griffith.} I yield back my time.

3419 Mr. {Stearns.} I thank the gentleman. Before I  
3420 recognize the gentleman from New York for 5 minutes I ask  
3421 unanimous consent to put this record into the record, a  
3422 letter from Kathleen Sebelius.

3423 Without objection, so ordered, and it is dated January  
3424 5, 2011.

3425 [The information follows:]

3426 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
3427           Mr. {Stearns.} The gentleman from New York is  
3428 recognized for 5 minutes.

3429           Mr. {Weiner.} Thank you, Mr. Chairman. I have been  
3430 watching with some interest in--my office has been trying to  
3431 do the Appropriation Bill on the Floor at the same time.

3432           I just want to try to set this up a little bit. You  
3433 know, we have this tendency to believe that this debate is  
3434 about health care, and to some degree it is, but what it is  
3435 really about is how we pay for the health care we get. I  
3436 mean, isn't it true, Mr. Larsen, that if someone is struck by  
3437 lightning and they are lying on the street, that an  
3438 ambulance will come and pick them up, that a doctor will try  
3439 to resuscitate them, if they need surgery, they will probably  
3440 get it, but the question becomes how it is we pay for that  
3441 care and how we insure certain minimum standard of care.

3442           Is that right, Mr. Larsen?

3443           Mr. {Larsen.} That is correct.

3444           Mr. {Weiner.} And are there not really three  
3445 possibilities? One is the employer-based model, which is we  
3446 pay premiums to an insurance company, they set the rules,  
3447 they set the standards, we go to them, we pay them, and they  
3448 pass the money along to the hospitals, to the doctors, to the  
3449 ambulance driver, and then they take a certain amount of

3450 profit.

3451           The second model is the one where basically you don't  
3452 have a private company passing along costs. A government  
3453 agency kind of does that. For example, Medicare is like  
3454 that. No government officer, Mr. Larsen, is paid to be the  
3455 doctor. It is just a matter of how we are paid for that  
3456 care.

3457           And then there is the third traunch of people which have  
3458 no coverage whatsoever. They are the people that don't have  
3459 any insurance whatsoever, and we hope and hope and hope they  
3460 have money in their own pocket to pay for that care, but if  
3461 they don't, isn't it true, Mr. Larsen, that what would wind  
3462 up happening is we are stuck with some tough choices. We can  
3463 say to the hospital doctor, tough. You got to suck it up,  
3464 and sometimes hospitals go out of business. We lost 17  
3465 hospitals, Ms. DeGette, in New York just since the year 2000.

3466           Or we can say, you know, let us come up with some kind  
3467 of reimbursement program, own reimbursed care. Different  
3468 States have different rules, the Federal Government has  
3469 different rules. Or we can do this. We can say to the  
3470 taxpayer, why don't you pay it, and we will figure out later  
3471 on how we need to work that, and that is why States get stuck  
3472 with such a large cost, localities get stuck with large  
3473 costs.

3474           When we had this discussion about how to come up with a  
3475 system for dealing with those people that are uninsured, what  
3476 did we do? We didn't go for the model that someone like I  
3477 would have liked, which is let us say like Medicare, for more  
3478 Americans, eventually covering all Americans. We went with  
3479 basically a free-market model and said, let us try the  
3480 employer-based system. Let us try to offer people both  
3481 incentives, subsidies, and then if they don't do it, we are  
3482 going to say to them, you know what? You can't pass your  
3483 bills along to everyone else. You are going to have to pay a  
3484 little extra if you are going to do that.

3485           Wasn't it, in fact, the system that we set up a reliance  
3486 upon the market-based model, the free-market model that says  
3487 insurance companies, you go do this work? Wasn't that  
3488 basically the path we followed here, Mr. Larsen?

3489           Mr. {Larsen.} Yes.

3490           Mr. {Weiner.} And further, Mr. Larsen, does not--do not  
3491 insurance companies, and they are not venal people. They are  
3492 in a business. They are in a free-market business. Do they  
3493 not make the most profits if they take in the highest amount  
3494 of premiums and pay out the least amount in care? Don't they  
3495 then make the most profit?

3496           Mr. {Larsen.} Yes.

3497           Mr. {Weiner.} And isn't the model today structured to

3498 incentivize them to do that? The problem is, Mr. Larsen, and  
3499 Mr. Angoff, is that that model is not necessarily in the  
3500 interest of our constituents or good care.

3501 I will give you an example. What if they decide we  
3502 don't want to cover preventative care, or we don't want to  
3503 cover people for the entire life of their illness. We just  
3504 want to cover the first couple of days. They are going to  
3505 make more money. Their stockholders are going to do well.  
3506 That company is going to do well, but it is not necessarily  
3507 in the best interest of the American people, whether you are  
3508 in a Republican Congressional District or a Democratic.  
3509 Sometimes we want to say to them, you know what? We want to  
3510 have some standards we want you to uphold. We don't want you  
3511 to go out of business. We have socked it in on this process.  
3512 We obviously want insurance companies to do well to make a  
3513 healthy profit. We want them to be around for years to come.

3514 But the question is should we say to them, you know,  
3515 maybe we should put basic requirements that if that guy is  
3516 lying on the street, you can't look at him and say, oh, I  
3517 don't think this guy is going to be a good deal and have the  
3518 insurance company keep driving by. No, of course not. We  
3519 got to be able to make coverage.

3520 And you know what? They are doing remarkably well. I  
3521 mean, let us face it. If you bought insurance company stock

3522 at the beginning of the recent downfall, you would still be  
3523 doing pretty well because people keep getting sick, people  
3524 keep getting struck by lightening, people keep needing that  
3525 care. They are doing okay. As a matter of fact, if you want  
3526 to find the easiest, let us say \$300 billion or so, you can  
3527 take out, you can transfer in health care costs to better  
3528 care and reduce taxes for people. You might want to look at  
3529 the percentage of the health care budget that we put to  
3530 insurance company profits.

3531         So the idea that somehow government is coming in and  
3532 imposing some government solution, there is not a single  
3533 government doctor that has been hired, a single government  
3534 nurse, a single government operator of an X-ray machine. But  
3535 that doesn't mean we should simply say you are unfettered by  
3536 any regulatory force.

3537         You know, for all of the talk about let us have  
3538 transferring of being able to buy insurance policies over  
3539 State lines, none of my Republican friends have said, let us  
3540 get rid of State insurance commissioners and State insurance  
3541 regulations because we acknowledge we need some basic  
3542 regulations.

3543         Mr. Larsen, is that basically in a broad form what your  
3544 Office has been spending part of its time doing?

3545         Mr. {Larsen.} Yes.

3546 Mr. {Weiner.} Thank you, and I await a second round,  
3547 Mr. Chairman.

3548 Mr. {Stearns.} All right. The gentleman has advocated  
3549 strongly for Medicare as a solution, so he has made that  
3550 argument all during our markups, and I think he--and I  
3551 appreciate him coming down.

3552 I think what we are going to do, we are finished the  
3553 rounds. I thought the Ranking Member would have a chance to  
3554 close, and then I would say a few--

3555 Ms. {DeGette.} I would ask unanimous consent that--

3556 Mr. {Stearns.} Objection. Just, let me just clarify.  
3557 Generally when we do the rounds, a member has to be here.  
3558 So--but if the member shows up in the beginning and then goes  
3559 to the restroom and comes back, then that is okay, but if  
3560 someone comes at the very end--I think your eloquent goes to  
3561 the equivalent of three.

3562 So at this point I think we are going to have--we have  
3563 been here 3 hours, and we are going to let the Ranking Member  
3564 conclude, and then I will say a few closing comments, and we  
3565 appreciate the witnesses bearing through the rest of us.

3566 Go ahead.

3567 Ms. {DeGette.} Thank you so much, Mr. Chairman. I just  
3568 have a couple of questions to clarify. I guess I would ask  
3569 either one of you gentlemen, if this agency was moved because

3570 of any action that this Oversight and Investigations  
3571 Committee or the Energy and Commerce Committee in general  
3572 made?

3573 Mr. {Angoff.} No, it was not.

3574 Ms. {DeGette.} And why was it moved?

3575 Mr. {Angoff.} It was moved because there are  
3576 efficiencies to be gained, as we mentioned in such functions  
3577 as budget, personnel, external affairs, IT, other front  
3578 office functions. There are efficiencies to be gained.

3579 Ms. {DeGette.} So it was actually done to make the  
3580 program operate in a more efficient manner?

3581 Mr. {Angoff.} That is correct.

3582 Ms. {DeGette.} Now, there was some question about the  
3583 agency's budget, and I just wanted to clarify. As I recall,  
3584 the HHS overall budget request was about \$79 billion, and  
3585 from what I have heard is that your Office's budget, Mr.  
3586 Larsen, is roughly about \$330 million for 2012. Is that  
3587 correct?

3588 Mr. {Larsen.} Yes.

3589 Ms. {DeGette.} So of that amount that would--of the CMS  
3590 budget, which, of course, is much smaller than the overall  
3591 HHS budget, your budget request would be around \$7.5 of the  
3592 CMS budget request and less than one-half of 1 percent of the  
3593 overall HHS discretionary budget request for 2012. Is that

3594 correct?

3595 Mr. {Larsen.} Correct.

3596 Ms. {DeGette.} And what your agency is doing by giving  
3597 these waivers, it is working with companies, both private  
3598 companies and also group plans, to give them appropriate  
3599 waiver so that they can give insurance to their employees  
3600 during the gap between now and 2014, when those employees  
3601 will be having more options. Is that correct?

3602 Mr. {Larsen.} That is correct.

3603 Ms. {DeGette.} Mr. Chairman, I will yield my remaining  
3604 2 minutes to Mr. Weiner.

3605 Mr. {Weiner.} While you are here, can you clear up a  
3606 couple of things? I understand in the Health Care Act we  
3607 hired 16,000 IRS officers. That is not true, is it?

3608 Mr. {Larsen.} I don't know.

3609 Mr. {Weiner.} Yeah. That was one of those made-up  
3610 things. I actually wanted a couple of moments to tick off  
3611 the made-up stories about the health care, but I realize 2  
3612 minutes and 48 seconds will barely tip the iceberg, but let  
3613 me just--that is one of the stories that is made up,

3614 Secondly, there is this notion about the Health Care Act  
3615 that has been perpetuated widely that government is going and  
3616 taking over health care, government takeover of health care  
3617 is said over and over again.

3618 Under the Act today, under the Act today, or under the  
3619 Act when it is implemented, will there ever be a situation  
3620 where there will be a government employee, a government  
3621 employee telling a doctor what process or processes that they  
3622 can offer to a patient?

3623 Mr. {Larsen.} Not to my knowledge.

3624 Mr. {Weiner.} However, there still will be because we  
3625 have private insurance companies, still will be insurance  
3626 companies that are going to have broad discretion to be  
3627 jackasses with their customers. Right? I mean, you can't--  
3628 there is still going to be people, they are still going to  
3629 keep you on hold for hours. There is nothing in the bill  
3630 that prevents that. Right?

3631 Mr. {Larsen.} If your question is does it preserve the  
3632 private market for insurance companies, yes.

3633 Mr. {Weiner.} Yeah. You are much more delicate than I  
3634 am, Mr. Larsen.

3635 Let me ask you another question. There is this notion  
3636 that we are paying a couple of years, we are paying 10 years  
3637 of taxes for 6 years of service. Isn't it true that today as  
3638 we speak that senior citizens have--that senior citizens are  
3639 getting help reducing the cost for prescription drugs, the  
3640 so-called donut hole? Isn't that true that that is true  
3641 today, this second?

3642 Mr. {Larsen.} Yes.

3643 Mr. {Weiner.} Is it also not true that under Medicare  
3644 processes that used to be subject to a co-payment are now not  
3645 covered--that now do not--or has that not taken affect yet?

3646 Mr. {Angoff.} No, that is in effect.

3647 Mr. {Weiner.} That has. That is today?

3648 Mr. {Angoff.} Yes, sir.

3649 Mr. {Weiner.} Year--basically year 1, week 1, month 1  
3650 of the new Health Care Act.

3651 Let me finally ask you in the remaining 60 seconds about  
3652 the idea of the death panel. What section or line is the  
3653 death panel in? And just so you know, it was widely  
3654 circulated by all kinds of media outlets and perpetuated by  
3655 some members of this Congress that there was an effort going  
3656 to be made in order to reduce end-of-life coverage. They  
3657 were going to tell some people they could not get that  
3658 coverage. Is that anywhere in the Act, anywhere in the  
3659 regulation, or anywhere in the attempt of the law?

3660 Mr. {Angoff.} No. I haven't been able to find it.

3661 Mr. {Weiner.} Now, can I ask you this question. Is it  
3662 also true that the way the private insurance model is  
3663 supposed to work is that if you aggregate the cost on a wider  
3664 population, meaning more people get private coverage, that in  
3665 theory according to free-market principles that aggregation

3666 of cost means lower costs to the whole population?

3667 Mr. {Angoff.} That is right. That is the fundamental  
3668 principle of insurance. You spread the risk as widely as  
3669 possible.

3670 Mr. {Weiner.} Thank you very much, and I yield back  
3671 what time is remaining.

3672 Mr. {Stearns.} All right. The gentlelady yields back,  
3673 and we are going to conclude. I have, as Chairman I have the  
3674 opportunity to offer a few closing comments.

3675 I would say a question that, you don't have to answer  
3676 but there is a competitive effectiveness for it which is part  
3677 of this bill which is trying to determine efficiency of  
3678 delivery, which is being construed by some as a case of  
3679 cutting off certain services for shall we say medical  
3680 practice.

3681 But any time you have a government mandate on insurance  
3682 companies, you have a government mandate on employers and  
3683 employees, that is considered a government-run system, and  
3684 that is why in both the State of Virginia and the State of  
3685 Florida they have ruled this mandate unconstitutional.

3686 But I would just close with this comment. The New York  
3687 Times recently reported on December 8, 2010, that you folks  
3688 are--have leased an office in Bethesda and are, ``paying  
3689 almost double the market rate for the space.'' This is what

3690 the New York Times reported, and I assume that is true.

3691 Mr. {Angoff.} No, it is not, Mr. Chairman.

3692 Mr. {Stearns.} It is not true. I will give you a  
3693 chance to correct that--

3694 Mr. {Angoff.} No, it is not.

3695 Mr. {Stearns.} --because you think the New York Times  
3696 is incorrect.

3697 Mr. {Angoff.} In that case, yes, it is. The Bethesda  
3698 office space was something that we didn't seek. We rented in  
3699 Bethesda because the rates in Bethesda were lower,  
3700 substantially lower than they were in Washington, DC, and in  
3701 addition, there was the extra added bonus that the space  
3702 there was already built out. We didn't want to go to  
3703 Bethesda. We would much rather have preferred to be--

3704 Mr. {Stearns.} In Washington.

3705 Mr. {Angoff.} --DC, but it was cheaper, and we could  
3706 get it, get in there faster.

3707 Mr. {Stearns.} Okay. So if I went to the landlord of  
3708 that building you are in, they would lease it to me for the  
3709 same amount that you are paying?

3710 Mr. {Angoff.} I don't know what they would do.

3711 Mr. {Stearns.} So it is possible that you are paying,  
3712 even though you are paying less than you would be in  
3713 Washington, DC, you are paying more than the market rate for

3714 that Bethesda facility. I think that is what the New York  
3715 Times--

3716 Mr. {Angoff.} No, and I think--

3717 Mr. {Larsen.} I think that the error was that there is  
3718 a difference between rentable space and usable space, and you  
3719 get different rates based on whether it is, for example,  
3720 ready to move in. So the market rate for rentable space,  
3721 which is what my understanding is the GSA negotiated, was, in  
3722 fact, the market rate for rental space.

3723 Mr. {Stearns.} Just giving you an opportunity. I just  
3724 thought it ironic when we are trying to bring health care  
3725 costs at the main core constituency that is deciding what the  
3726 Health Care Bill should be is paying too high a market rate.  
3727 So that is my only thought about it.

3728 Let me just close by allowing all members to offer  
3729 questions for a period of up to 10 days. If you have  
3730 additional questions, you are welcome to offer those. I want  
3731 to thank the witnesses for your participation, and without  
3732 further ado, the committee is adjourned.

3733 [Whereupon, at 12:30 p.m., the Subcommittee was  
3734 adjourned.]