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United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510–6200

June 19, 2014

The Honorable Marilyn Tavenner
Administrator
Centers for Medicare & Medicaid Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Administrator Tavenner:

As the Ranking Member and a senior member of the Senate Committee on Finance (Committee), it is our responsibility to conduct oversight of the Department of Health Human Services (HHS), including the Centers for Medicare & Medicaid Services (CMS) and the implementation of provisions contained in the Patient Protection and Affordable Care Act (PPACA).

In this capacity, we are writing to obtain information about the role of the CMS contractor Optum/QSSI, with regard to its responsibilities as "senior advisor" on the Healthcare.gov website. Additionally, I am interested in the relationship between Optum/QSSI and the insurer UnitedHealthcare, both of which are subsidiaries of UnitedHealth Group (UHG).

As you know, we have both written to HHS about the interaction between Optum/QSSI, UnitedHealthcare and the Federally Facilitated Exchanges (FFE) in letters dated October 19, 2012 and December 10, 2012. To date, our questions largely remain unanswered.

On January 14, 2014, Optum/QSSI was awarded a contract with CMS to serve as senior advisor on HealthCare.gov. [1] The procured services include "project oversight, technical integration, code review and other areas." As a result of this key technical advisor position, Optum/QSSI will have access to a significant amount of data regarding highly sensitive aspects of FFE operations, including payment calculation for reinsurance, risk adjustment and risk corridors, and the required data collection to support these services.[2] Additionally, Optum/QSSI has contracted with three states (Maryland, Massachusetts and Minnesota) to provide similar services for their online marketplaces, and may be subcontracting with others.[3]

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[1] www.unitedhealthgroup.com/newsroom/articles/feed/optum/2014/0114QSSI

[2] http://thehill.com/policy/healthcare/265659-conflict-of-interests-concerns-raised-as-obama-races-to-implement-health-reform

[3] http://m.lifehealthpro.com/2014/03/31/optum-ppaca-exchange-website-rescue-hero

Meanwhile, UnitedHealthcare, one the of nation's largest providers of health plans, is participating as an insurer in ten state exchanges (Alabama, Colorado, Connecticut, Kentucky, Maryland, Michigan, Nevada, New York, Rhode Island, and the District of Columbia), and may expand into the FFE Marketplace in 2015. Given the role of its fellow UHG subsidiary, we have serious questions about any conflicts of interest that may exist between the two entities.

Finally, we are also seeking more information about the movement of individuals in senior leadership positions between Optum/QSSI and UnitedHealthcare. It is our understanding that several key personnel have recently transitioned from executive level positions at UnitedHealthcare to executive level positions at Optum/QSSI, and vice versa. We would like to ensure that all potential conflicts of interest were mitigated.

To help us understand all these issues, please provide our staff with the following information:

1. All documents, including memoranda and e-mails, related to the January 2014 contract awarded to Optum/QSSI for services related to HealthCare.gov, including the statement of work.

2. All documents, including memoranda and e-mails, with regard to any evaluation conducted by CMS of potential conflicts of interest between Optum/QSSI and any other subsidiary of UnitedHealth Group, prior to the award of the January 2014 contract, including the results of this evaluation, and any actions taken by CMS to resolve potential conflicts of interest.

3. All documents, including memoranda and e-mails, with regard to any conflict of interest disclosure requirements that exist for entities participating in any way in the state or Federally Facilitated Exchanges, and any such disclosures provided to CMS by UnitedHealth Group or any of its subsidiaries.

4. A detailed description of the types of data Optum/QSSI is expected to access in carrying out their responsibilities related to the above referenced contract, including:
    a. An explanation of how these sets of data will be utilized;
    b. A detailed description of any firewalls or infrastructure mechanisms intended to protect the integrity of these data, and prevent any misuse.

5. All documents, including memoranda and e-mails, with regard to how CMS will ensure sufficient internal controls are in place to prevent the inappropriate exchange of proprietary information between Optum/QSSI and any subsidiary of UnitedHealth Group moving forward, particularly if any UHG entity expands their participation in the state or Federally Facilitated Exchanges, or if the current "senior advisor" contract is modified, and how CMS will mitigate any potential conflicts of interest among these entities.

6. A list of key personnel at Optum/QSSI and UnitedHealthcare with which CMS has interacted, and a description of the roles and responsibilities of those individuals.

Thank you for your prompt attention to this important matter. I would appreciate your response by no later than June 30, 2014. Should you have any questions regarding this letter, please contact Kimberly Brandt of the Senate Finance Committee Minority Staff at (202) 224-4515 and Tegan Millspaw of the Senate Judiciary Committee Minority Staff at (202) 224-5225.

Sincerely,

Orrin Hatch
Ranking Member
Senate Finance Committee

Charles Grassley
Ranking Member
Senate Judiciary Committee