

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

October 20, 2022

The Honorable Janet L. Yellen  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Yellen,

We write to request that you preserve all documents and communications in your custody relating to the Administration's April 7, 2022, proposed rule aimed at "fixing" the so-called "family glitch" in the Affordable Care Act (ACA).<sup>1</sup> Congressional Republicans have repeatedly sought information from the Administration about the expected and actual impacts of this policy for more than six months, but still have not received an adequate response from the Biden Administration. Today we reiterate our concern about the Administration's unilateral action on a matter reserved solely to the Congress under the U.S. Constitution.

Specifically, Ways and Means Ranking Member Brady and Senate Finance Ranking Member Crapo sent a letter to the U.S. Department of Treasury on April 28, 2022, regarding the Biden Administration's April 7, 2022, decision.<sup>2</sup> The letter requested documents and information dating back to February 2013, including documents related to the Administration's decision to change the affordability rule despite having held an alternative position for more than a decade; a comprehensive economic impact analysis; an analysis of the effects on health insurance coverage, premiums, and federal subsidies across all market segments impacted; and information regarding the Administration's interpretation of the statute.

On June 6, 2022, the U.S. Department of the Treasury provided an insufficient response that failed to answer any of the questions asked in the April 28, 2022, letter adequately. In an effort to obtain information from other entities in the Administration who may have been involved in this policy decision, Ways and Means Ranking Member Brady and Health Subcommittee Ranking Member Buchanan filed a Resolution of Inquiry (ROI) on July 26, 2022, seeking communications between the U.S. Department of Health and Human Services (HHS)

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<sup>1</sup> See 87 Fed. Reg. at 20354.

<sup>2</sup> Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady and S. Comm. on Finance Ranking Member Mike Crapo to The Hon. Janet L. Yellen, Sec'y of the U.S. Department of the Treasury (Apr. 28, 2022), [https://gop-waysandmeans.house.gov/wp-content/uploads/2022/04/2022.04.28\\_Brady-Crapo-to-Yellen.pdf](https://gop-waysandmeans.house.gov/wp-content/uploads/2022/04/2022.04.28_Brady-Crapo-to-Yellen.pdf).

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and the White House about this issue.<sup>3</sup> Unfortunately, on September 20, 2022, the Committee on Ways and Means unfavorably reported H. Res. 1262.

The lack of a sufficient response from the Administration to date is disappointing and unacceptable. Transparency is essential because it promotes accountability and provides information for the Congress and Americans about what the federal government is doing. The American people deserve to know how their government works and how decisions are being made. This is especially critical when the Administration makes a unilateral policy decision without congressional action, and the expected impacts of such a policy are so severe. For example, it has been estimated that about 90 percent of the roughly five million people affected by this illegal expansion already have health insurance coverage.<sup>4</sup> Even worse, it is projected the rule displaces private sector health care spending with a potential increase of \$34 billion over 10 years in government spending.<sup>5</sup>

Despite the Administration's inadequate response to our initial request, we continue to expect that the Department provide the documents and information requested in the April 28, 2022, letter, which is attached for your reference. We also request that you provide all communications between your Department, the White House, and/or HHS employees related to the decision to "fix" the so-called "family glitch" via regulatory changes.

Moreover, we insist that you take all appropriate measures to collect and preserve all documents, communications, and other records that are relevant to the Administration's "fix" to the ACA's so-called "family glitch." Specifically, this request includes, but is not limited to, all types of documents and essential communications between and among your Department, the White House, and/or HHS employees related to the proposed rule announced on April 7, 2022, and the final rule issued on October 11, 2022.

Please provide a response to the April 28, 2022, letter and the documents requested in this letter, and confirm that you have taken actions to preserve documents related to this matter by November 3, 2022. If you have any questions or wish to discuss the request, please contact Sean Clerget of the Ways and Means Committee staff at (202) 225-4021.

Sincerely,

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<sup>3</sup> H. Res. 1262, 117th Cong. (2022), <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/09/H.-RES.-1262.pdf>.

<sup>4</sup> Timothy S. Jost, *A Fix for the Family Glitch*, THE COMMONWEALTH FUND (Apr. 12, 2022), <https://www.commonwealthfund.org/blog/2022/fix-family-glitch>.

<sup>5</sup> Congressional Budget Office, *Federal Subsidies for Health Insurance Coverage for People Under 65: 2022 to 2032* (June 2022), <https://www.cbo.gov/system/files/2022-06/57962-health-insurance-subsidies.pdf>.

A handwritten signature in black ink that reads "KEVIN BRADY". The signature is stylized with a large, sweeping initial "K" and "B".

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Kevin Brady  
Republican Leader  
Committee on Ways and Means

A handwritten signature in blue ink that reads "Vern Buchanan". The signature is written in a cursive, flowing style.

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Vern Buchanan  
Republican Leader  
Subcommittee on Health