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Opening Statement Rep. Jackie Speier, Ranking Member

Subcommittee on Energy Policy, Health Care and Entitlements Hearing on "Oversight of IRS's Legal Basis for Expanding Obamacare Taxes and Subsidies"

July 31, 2013

Thank you, Mr. Chairman.

Congress passed the Affordable Care Act to make affordable health care available to all Americans. It is the law of the land and it is already working. More than 3 million young adults who would otherwise have been uninsured are now able to stay on their parents' health insurance. More than 20 million children with pre-existing conditions can no longer be denied health insurance. Seniors have saved more than \$7 billion on their prescription drug costs. Those are just a few of the benefits that have already kicked in.

The full impact of the ACA will not be felt until next year. Many states that have embraced Obamacare and implemented their own exchanges have already announced lower premiums—in some cases dramatically lower—than even we expected. And that is despite offering better benefits, including free preventative care, no lifetime limits on coverage, and not being able to deny customers because they have a pre-existing condition. In California, average premiums in the exchange for 2014 are from 2%-29% lower than average premiums this year. In New York they will drop as much as 50%.

The law is working, and maybe that is what its opponents are afraid of.

What happens when Congress passes laws? Agencies implement them.

That is why the Treasury Department issued regulations implementing provisions of the Affordable Care Act that relate to premium tax credits the Act authorizes to make health insurance affordable to low income earners. I know that when I voted for the law, it never occurred to me that Americans could be treated differently simply because of where they live. No one ever debated using these subsidies as a carrot or stick to get states to implement their own exchange. I expected as many Americans as possible to get affordable coverage, and help if they need it. Why would we give a tax credit to a taxpayer seeking health insurance in one state, and not a similarly situated taxpayer in another state?

Since the fall of 2012, this Committee has been scrutinizing Treasury's implementation of the Affordable Care Act's tax provisions, including the provision of tax credits to those who meet certain income criteria. Treasury has produced documents, given high level briefings, and permitted committee staff to study sensitive documents without redactions.

What we found was that Treasury followed the same transparent procedures in issuing this regulation that it has used in implementing other laws Congress has enacted. We have found no evidence to the contrary.

Chairman Issa also consulted CBO late last year, which confirmed that its score of the Affordable Care Act—at the time it was passed in March 2010—assumed that tax credits would be available to residents in all states, including states where the exchange was established by the federal government. I ask consent to enter the CBO's response to Chairman Issa into the record.

As we all know, there are detractors who have never liked the Affordable Care Act. They marshaled their best arguments and vigorously advocated to anyone who would listen. First, they tried to stop the Affordable Care Act in Congress. They failed. Then they took to the courts, and pursued their case all the way to the U.S. Supreme Court. They lost there too. The continual effort to roll back time has become frustrating even to members of the Majority's own party. Senators Coburn and McCain now categorize the House efforts to defund ACA as dishonest and hype. Dr. Coburn stated, and I quote "The worst thing is being dishonest with your base about what you can accomplish, ginning everybody up and then creating disappointment," "It's a terribly dangerous and not successful strategy." [End quote].

Those attempting to sabotage Obamacare aren't giving up, but all they are left with now are their second-best legal arguments. Today's hearing was called by the majority to put the best light on these one of these arguments.

Indeed, two witnesses called by the majority on today's first panel are litigants in pending lawsuits on this very topic. While I appreciate that these witnesses have traveled today to give us their interpretation of the legality of certain aspects of the health care law, I want to make this abundantly clear: this hearing is not the proper forum to litigate the merits of these cases. This subcommittee hearing room is not a courtroom.

I hope that no members intend to use this hearing or any documents obtained in the Committee's investigation to try and influence the litigation.

Mr. Chairman, as you know I am a strong believer in the importance of Congressional oversight. But I do not believe that we should insert this subcommittee into active litigation under the guise of oversight. I hope that you will exercise your discretion as Chair of the Committee and direct the Members today to avoid asking questions which could jeopardize, in any way, a fair trial for all litigants. Otherwise, I believe you may, intentionally or not, permit the legal process to be tainted by political interference. This simply does not serve any legitimate goal of this Committee or the Congress.

That said, these arguments present real world implications for millions of hard working Americans who will be seeking access to affordable health insurance over the next several months and in the future. If Mr. Pruitt's lawsuit were to prevail, all he would achieve is making health care unaffordable to over 300,000 Oklahomans, who would no longer be able to receive premium tax credits to help them buy health insurance in Oklahoma. Contrary to any ideological victory some may think could be won by his lawsuit, the reality of a legal victory is a terrible loss for the lower income people in Oklahoma who pay the Attorney General's salary and whose taxes are even underwriting the very lawsuit that would deny them benefits.

We are all public servants, and we should be better than that. We should be looking to implement the law so that the reality matches the purposes, and that it is done in as effective and efficient a manner as is possible.

Unfortunately, this Congress will be voting this week for at least the 40th time to repeal or defund the Affordable Care Act in whole or in part. So while I'm not happy that a State Attorney General would pursue litigation that is so contrary to the general welfare of the people of his state, I have to concede that the current House of Representatives, in its desperate attempt to gut this law, is not setting much of an example.

I thank the witnesses today for their appearance. I yield back the remainder of my time.

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