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Congress of the United States

House of Representatives

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November 7, 2011

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

The Honorable Trey Gowdy
Chairman
Subcommittee on Health Care, District of
Columbia, Census and the National Archives
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairmen:

On October 27, 2011, Republican Committee staff issued a report purporting to find that the Patient Protection and Affordable Care Act will remove millions of people from the tax rolls, increase the federal budget deficit, and create economic disincentives for marriage. Unfortunately, this staff report was not made available to Subcommittee Members until you released it to the press only ten minutes before the start of the hearing on that day. Since the Subcommittee was deprived of the opportunity to review, consider, or debate the report, it was issued with several severe flaws. Key calculations were wrong, multiple statements were erroneous, and the report's central conclusions were unsupported by the evidence. These flaws are described in more detail below.

The report's conclusion that the Affordable Care Act will erode employer-sponsored health insurance was based on a widely repudiated study and erroneous staff calculations.

The Republican staff report concluded that, "The tax credits in the PPACA are the law's primary fiscal time bomb because they present businesses with an incentive to drop health insurance coverage."¹

¹ Republican Staff, House Committee on Oversight and Government Reform, *Uncovering the True Impact of the Obamacare Tax Credits: Increases the Deficit, Expands Welfare through the Tax Code, and Implements a New Marriage Tax Penalty* (Oct. 27, 2011).

Although the staff report cited a survey by McKinsey to support this claim, it failed to mention that McKinsey subsequently acknowledged significant errors in that study and conceded that the report “was not a good tool for prediction.”²

The Republican staff report also presented faulty calculations of financial incentives that allegedly would lead employers to drop health coverage. According to Professor Jonathan Gruber, a health economist at MIT:

They ignore a major incentive for employers to keep (or start) offering coverage: the free rider penalty. This section of the ACA charges firms of more than 50 employees a large \$2,000–\$3,000 charge, per worker, if their employees receive subsidies on the health insurance exchange. This provides a strong countervailing financial incentive to firms to offer insurance. If you plug that penalty into the committee’s calculations, which appear in Table 1 on page 14 of the report, the results look very different. In up to half of the cases that the report documents, employers suffer more if they fail to offer insurance than if they do.³

The Republican staff calculations are also flawed in other ways. They assumed an actuarial value of 70% for both employer-sponsored plans and plans purchased through the exchanges required to be created by the Affordable Care Act. That assumption is incorrect. According to a study published in *Health Affairs* in 2009, the average actuarial value of all employer-sponsored plans in 2007 was 80.1%.⁴ The mistaken assumption distorts Table 1 in the staff report, causing its findings to understate the value to employees of employer-sponsored plans and overstate the incentive for employers to drop their sponsorship of health insurance.

Republican staff calculations also erroneously reflected different premium costs for individuals of different age groups in large employer-sponsored health plans. In fact, large employer-sponsored insurance premiums are community-rated, meaning that premiums do not vary according to the age of employees. According to “The Geography of Health Insurance Regulation,” in large employer-sponsored plans, there is much less of a tendency for insurance to

² *About That McKinsey Report ... The Critics Were Right*, New Republic (June 24, 2011) (online at www.tnr.com/blog/jonathan-cohn/90696/healthcare-mckinsey-obama). See also *Fox Hyped McKinsey & Co. Study But Ignored Admission that It's Not a "Predictive Economic Analysis,"* Media Matters for America (June 21, 2011) (online at www.mediamatters.org/research/20110621001).

³ Jonathan Gruber, *Another Bogus Attack on Obamacare*, New Republic (Oct. 30, 2011) (online at www.tnr.com/blog/jonathan-cohn/96866/gruber-issa-ppaca-tax-credit-employer-insurance-obamacare).

⁴ Jon R. Gabel, *Trends In Underinsurance and the Affordability Of Employer Coverage, 2004–2007*, *Health Affairs* (July 2009) (online at www.content.healthaffairs.org/content/28/4/w595.abstract).

be selected with the health condition of particular subscribers in mind.⁵ Little to no medical underwriting is used to set premiums paid by individual employees enrolled in these plans, and young employees pay the same individual premiums as older employees.⁶ Correcting for this error undermines the entire finding in the Republican staff report.

The experience of Massachusetts under Governor Mitt Romney's health plan also refutes the Republican staff contention. According to Professor Gruber:

According to estimates from the Current Population Survey, the share of the Massachusetts population with employer-sponsored insurance rose by 0.6 percent from 2006–2009 [after enactment of the health plan], while over the same period the share of the national population with employer-sponsored insurance fell by 4 percent. Some of this rise is due to increased enrollment in employer-sponsored insurance by those endeavoring to meet the requirements of the mandate, but some has actually been through *higher* rates of employer insurance offering. The rate of employer-provided insurance offering in Massachusetts rose from 70 percent in 2005 to 76 percent in 2009, while it remained flat at 60 percent nationally. This is despite the fact that Massachusetts had a much smaller penalty on employers that didn't offer insurance (only \$300/year).⁷

The report's claim that millions of people will be dropped from the tax rolls is erroneous.

The Republican staff report asserted, "The health insurance tax credits in the PPACA will directly remove millions of additional households from the tax rolls."⁸

The Republican staff report ignored the fact that approximately three-quarters of American households pay more in payroll taxes than in income taxes, and it excluded the value of those payroll taxes from the report's calculations.⁹ Those people will continue to pay payroll taxes even after the Affordable Care Act is fully phased in.

⁵ Mark A. Hall, *The Geography of Health Insurance Regulation*, Health Affairs (Mar./Apr. 2000) (online at www.content.healthaffairs.org/content/19/2/173.full.pdf).

⁶ *Id.*

⁷ Jonathan Gruber, *Another Bogus Attack on Obamacare*, New Republic (Oct. 30, 2011) (online at www.tnr.com/blog/jonathan-cohn/96866/gruber-issa-ppaca-tax-credit-employer-insurance-obamacare). See also Jonathan Gruber, *The Impacts of the Affordable Care Act: How Reasonable Are the Projections?*, National Tax Journal (June 2011) (online at www.mit.edu/files/6829).

⁸ Republican Staff, House Committee on Oversight and Government Reform, *Uncovering the True Impact of the Obamacare Tax Credits: Increases the Deficit, Expands Welfare through the Tax Code, and Implements a New Marriage Tax Penalty* (Oct. 27, 2011).

⁹ *Tax Facts: Historical Payroll Tax vs. Income Tax*, Tax Policy Center (Apr. 30, 2009) (online at www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=230&Topic2id=50).

Payroll taxes account for 34% of federal revenue.¹⁰ Among households with wage earners, 86% have higher payroll taxes than income taxes, including almost all of those with incomes less than \$40,000 and 94% of those with incomes less than \$100,000.¹¹ Yet, the Republican staff report excluded the value of payroll taxes from its calculations of tax liability. This caused an exaggeration of the effect of the Affordable Care Act tax credit. As Professor Gruber notes:

Consider two of the three examples that the committee provides, on page 10 of their report. One makes \$80,000, the other \$90,000. Those families will pay payroll taxes much larger than the negative income tax burden shown in the report, even after they've received the insurance tax credits.¹²

In other words, when both payroll and income taxes are counted toward a person's federal tax liability, the likelihood decreases that an Affordable Care Act health insurance tax credit will result in a negative federal tax bill. Many fewer people will have a negative tax liability than the Republican staff report asserts.

Professor Gruber also explains that the Republican staff analysis was wrong about how the tax credit will be paid. The report implied that the Affordable Care Act tax credit, like other income tax credits, would be paid directly to taxpayers to reimburse them for health insurance premiums they pay. But that will not be the case. Professor Gruber explains:

Most households will never actually get their hands on the credits, so their existing tax liabilities won't actually change. In most cases, credits will go straight to insurance companies, to pay for health benefits. So a household that is currently paying taxes will continue to pay taxes. The change here isn't in tax liability, it's in the availability and affordability of health insurance. People will get coverage for a lower price than they otherwise would have, not see their tax liability wiped out.¹³

The Republican staff report erroneously concluded that the Affordable Care Act will add to the federal budget deficit.

¹⁰ *Getting the Facts Straight on America's Tax Burden*, The White House Blog (Sept. 26, 2011) (online at www.whitehouse.gov/blog/2011/09/26/getting-facts-straight-americas-tax-burden).

¹¹ *Two-Thirds of Tax Units Pay More Payroll Tax than Income Tax*, Tax Policy Center (Apr. 9, 2007) (online at www.taxpolicycenter.org/UploadedPDF/1001065_Tax_Units.pdf).

¹² Jonathan Gruber, *Another Bogus Attack on Obamacare*, New Republic (Oct. 30, 2011) (online at www.tnr.com/blog/jonathan-cohn/96866/gruber-issa-ppaca-tax-credit-employer-insurance-obamacare).

¹³ *Id.*

The Republican staff analysis claimed that Affordable Care Act insurance tax credits and the Medicaid expansion “will increase the nation’s debt burden by \$1.36 trillion.”¹⁴

The Republican staff counted the costs of tax credits created by the Affordable Care Act, but not the revenues the Act will generate. When revenues are counted, they more than offset the costs. According to the Congressional Budget Office (CBO), the Affordable Care Act will reduce the deficit by \$124 billion from 2010 to 2019.¹⁵ As Professor Gruber explains, what matters “is the law’s net impact on the deficit.” He observes:

[T]he Congressional Budget Office has said repeatedly it believes the impact will be negative, more so in the long run. This is an important break with the recent past. The Medicare drug benefit failed to offset spending with either cuts or revenue—and, as a result, increased the deficit. The Bush tax cut included a deficit “time bomb” by squeezing costs into the future, beyond the scored budget window. The ACA does neither of these things. According to the best and official estimates, deficit reduction actually grows over time, reducing the deficit by more than one trillion dollars in the second decade.¹⁶

Dr. Douglas Holtz-Eakin confirmed the validity of CBO’s calculations during the Subcommittee hearing in this exchange with Ranking Member Cummings:

CUMMINGS: Dr. Holtz-Eakin again, your written testimony characterizes CBO’s conclusion that the backup will result in budget saving as quote “misleading” on page 5 and quote “dubious” on page 4. You were once the director of CBO. You oversaw scoring on many bills. Is it your testimony today that CBO did something wrong or violated any of the principles of budgetary scoring that PPACA would generate a budget savings? Is that what you are saying?

HOLTZ-EAKIN: Absolutely not ...

CUMMINGS: Ok, well isn’t it true that you would have likely concluded a budgetary saving given the same facts and same bill language had you been the CBO director when the PPACA was scored?

¹⁴ Republican Staff, House Committee on Oversight and Government Reform, *Uncovering the True Impact of the Obamacare Tax Credits: Increases the Deficit, Expands Welfare through the Tax Code, and Implements a New Marriage Tax Penalty* (Oct. 27, 2011).

¹⁵ Congressional Budget Office, *CBO’s Analysis of the Major Health Care Legislation Enacted in March 2010* (Mar. 30, 2011) (online at www.cbo.gov/ftpdocs/121xx/doc12119/03-30-HealthCareLegislation.pdf).

¹⁶ Jonathan Gruber, *Another Bogus Attack on Obamacare*, New Republic (Oct. 30, 2011) (online at www.tnr.com/blog/jonathan-cohn/96866/gruber-issa-ppaca-tax-credit-employer-insurance-obamacare).

HOLTZ-EAKIN: Had Congress directed me as they directed the way they directed the current CBO, I would have received the same bottom line.¹⁷

The Republican staff report concluded without evidence that the Affordable Care Act creates a disincentive for marriage.

The Republican staff report concluded, “PPACA’s marriage penalty is bound to influence behavior and will directly cause fewer individuals to decide to marry and more couples to divorce.”¹⁸

The report offered no support for these assertions. In fact, Dr. Holtz-Eakin stated after the Subcommittee hearing that he “doesn’t think the law will ‘make or break the institution of marriage.’”¹⁹

The basis for the report’s marriage penalty argument was that benefits under the Affordable Care Act vary according to a person’s income, relative to the Federal Poverty Line. The Federal Poverty Line, in turn, takes into account economies of scale available to two people who share living expenses. As Professor Gruber explains, “the U.S. poverty line calculations assume that two individuals living together can live more economically than separately residing adults. This assumption happens to be correct.”

Many programs enacted by the government use the Federal Poverty Level to determine benefit levels. They include Head Start, Low Income Heating Emergency Assistance Program, the Supplemental Nutrition Assistance Program or Food Stamp Program, and the National School Lunch Program (for free and reduced-price meals only), among others. Professor Gruber explains:

If married couples received subsidies which were twice those received by singles, then they would end up much better off than singles living alone, because of the economies of living together. In order to equalize the situation for the minority of singles who live

¹⁷ House Committee on Oversight and Government Reform, Subcommittee on Health Care, District of Columbia, Census and the National Archives, Testimony of Dr. Douglas Holtz-Eakin, Hearing on “*Examining Obamacare’s Hidden Marriage Penalty and Its Impact on the Deficit*” (Oct. 27, 2011). See also *Politico Pulse*, Politico (Oct. 28, 2011) (online at www.politico.com/politicopulse/1011/politicopulse612.html).

¹⁸ Republican Staff, House Committee on Oversight and Government Reform, *Uncovering the True Impact of the Obamacare Tax Credits: Increases the Deficit, Expands Welfare through the Tax Code, and Implements a New Marriage Tax Penalty* (Oct. 27, 2011).

¹⁹ *Politico Pulse*, Politico (Oct. 28, 2011) (online at www.politico.com/politicopulse/1011/politicopulse612.html).

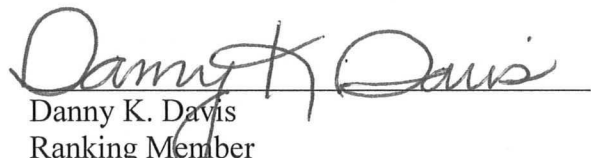
with a partner, any fix would be massively unfair to the majority of singles who live without a partner.²⁰

Single individuals, and unmarried heads-of-household, are twice as likely to be uninsured as married couples. According to the Commonwealth Fund's Biennial Health Insurance Survey of 2010, "single individuals, particularly those below the poverty level, struggle more than childless couples and families to afford health care-related costs."²¹

Conclusion

We do not know what was accomplished by the hasty publication of a partisan and flawed Republican staff report. The errors in the calculations and conclusions in this report should have been detected before its publication and dissemination. Unfortunately, your staff chose not to work in a bipartisan and cautious manner with ours. We can and should do better in the future.

Sincerely,


Elijah E. Cummings
Ranking Member
Danny K. Davis
Ranking Member
Subcommittee on Health Care,
District of Columbia, Census
and the National Archives

²⁰ Jonathan Gruber, *Another Bogus Attack on Obamacare*, New Republic (Oct. 30, 2011) (online at www.tnr.com/blog/jonathan-cohn/96866/gruber-issa-ppaca-tax-credit-employer-insurance-obamacare).

²¹ J. Gruber and I. Perry, *Realizing Health Reform's Potential: Will the Affordable Care Act Make Health Insurance Affordable?*, Commonwealth Fund's Biennial Health Insurance Survey of 2010 (Apr. 1, 2011) (online at www.commonwealthfund.org/Surveys/2011/Mar/2010-Biennial-Health-Insurance-Survey.aspx).