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Debunking Republican Claims about Coverage Losses under the Affordable Care Act

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**Debunking Republican Claims about Coverage Losses under the
Affordable Care Act**

Prepared for:

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Ranking Member**

Executive Summary

After months of steady progress, there has been a surge in enrollment in the Affordable Care Act's(ACA) new health insurance marketplaces as individuals signed up for coverage effective January 1. While final enrollment numbers through December have not yet been released, the federal exchanges operating in 36 states have enrolled over one million individuals in private coverage. State exchanges in 14 states and the District of Columbia are also reporting record levels of interest with enrollments of at least 850,000 people. In addition, Medicaid has enrolled over four million individuals under new eligibility rules established by the Affordable Care Act, and over three million young adults have gained coverage through their parents' plans.

Despite this progress, critics of the law have recently been advancing a particularly specious and disingenuous argument: that more people will lose health insurance coverage as a result of the Affordable Care Act than will gain coverage. This report examines the faulty assumptions and misleading analysis behind this claim.

Opponents of the Affordable Care Act claim that four to five million people will lose their health insurance coverage next year because of the law. They cite as evidence a report by the Associated Press that estimated that 4.7 million Americans have received or will receive notices cancelling their 2013 health insurance plans. The extrapolation from that report to the claim that millions will lack coverage next year rests on multiple erroneous premises:

- It ignores the efforts of insurance companies to re-sign individuals who received cancellation notices. Major insurance companies have indicated that they expect that the vast majority of the individuals to whom they sent notices will renew their 2013 coverage, be automatically enrolled in new coverage, or sign up for plans through the exchanges. As a result of Administration actions to allow additional 2013 policy renewals, half of the reported 4.7 million individuals who received cancellation notices have the option to renew their prior coverage.
- It assumes that no individuals who had private insurance will sign up for insurance through the new health exchanges or Medicaid. The Kaiser Family Foundation estimates that half of individuals with current individual market coverage are eligible for tax credits through the new marketplaces and that an additional one million are eligible for Medicaid. These individuals will receive better coverage at lower cost by enrolling through the exchanges or signing up for Medicaid, and many have done so.
- It overlooks the availability of low-cost catastrophic coverage. Individuals who received cancellation notices are eligible to apply for a hardship exemption and purchase catastrophic health plans typically offered only to individuals under thirty. These plans are widely available throughout the United States.

When these factors are taken into account, a much different picture emerges. While there is no central repository of data on insurance coverage in the individual market, the number of individuals who will lose individual coverage and be unable to renew pre-ACA coverage, enroll in subsidized coverage, or access a catastrophic plan is sure to be small. Of the reported 4.7 million people who receive cancellation notices, half should have the option to renew their 2013 coverage.

Of the remaining 2.35 million individuals, approximately 1.4 million should be eligible for tax credits through the marketplaces or Medicaid. Of the remaining 950,000 individuals, fewer than 10,000 people in 18 counties in a single state would lack access to an affordable catastrophic plan. This is less than 0.2% of the estimate made by opponents of the Affordable Care Act.

I. The Individual Market Before Reform

Coverage in the individual health insurance market before the Affordable Care Act (ACA) was unstable and unfair. Individuals could be denied coverage or charged dramatically more for coverage because of pre-existing health conditions such as asthma, diabetes, cancer, or high cholesterol. Insurers denied an average of one in five applicants for individual coverage with some issuers denying up to 70% of applicants in a given state.¹ Women could be charged higher premiums than men strictly based on their gender. Insurers rigorously reviewed applicants' health histories to weed out high risks.²

Individuals who were able to get coverage often had little protection. Policyholders could see their rates shoot up or see key benefits dropped the next year if they needed care; they could find out too late that their plan excluded major benefits like hospitalizations or chemotherapy; or they could see their coverage rescinded all together when they needed it most.³ Many plans in the individual market did not cover key benefits: 18% did not cover mental health services, 62% did not cover maternity benefits, and 9% did not cover prescription drugs.⁴ Hundreds of thousands of enrollees had their coverage rescinded when they needed care because insurance companies determined that they did not adequately disclose a preexisting health condition during the application process.⁵

¹ Kaiser Family Foundation, *How Buying Insurance Will Change Under Obamacare* (Sept. 24, 2013) (online at <http://kff.org/health-reform/perspective/how-buying-insurance-will-change-under-obamacare/>) and HealthPocket, *Health Insurance Application Rejection Rates Rising?* (Jan. 24, 2013) (online at <http://www.healthpocket.com/healthcare-research/infostat/health-insurance-application-rejection-rates/#.UsBo72RDtUg>).

² *Id.*

³ See e.g. Families USA Foundation, *Failing Grades: State Consumer Protections in the Individual Insurance Market* (June 2008) (online at <http://www.familiesusa.org/assets/pdfs/failing-grades.pdf>).

⁴U.S. Department of Health and Human Services, Assistant Secretary for Planning and Evaluation, *Essential Health Benefits: Individual Market Coverage*, (Dec. 16, 2011) (online at <http://aspe.hhs.gov/health/reports/2011/individualmarket/ib.pdf>) and Health Affairs, *More Than Half Of Individual Health Plans Offer Coverage That Falls Short Of What Can Be Sold Through Exchanges As Of 2014* (May 23, 2012) (online at <http://content.healthaffairs.org/content/31/6/1339.full.pdf+html>).

⁵ Memorandum from Chairmen Henry A. Waxman and Bart Stupak to Members of the Committee on Energy and Commerce, *Coverage Denials for Pre-Existing Conditions in the Individual Health Insurance Market*, 111th Cong. (Oct. 12, 2010) (online at http://democrats.energycommerce.house.gov/Press_111/20101012/Memo.Pre-existing.Condition.Denials.Individual.Market.2010.10.12.pdf).

Estimates of the total number of individuals whose primary health insurance coverage came through the individual market – as opposed to coverage through an employer or through public programs like Medicare – range from 10 million to over 15 million people.⁶ However, individuals with coverage in this market frequently lost or left coverage after only a few months. An analysis by the Kaiser Family Foundation found that one third of individual market policyholders left their coverage after only one year. A similar analysis found that more than 80% of policyholders did not stay in their coverage for more than two years.⁷ The Department of Health and Human Services estimated that before reform, 40% to 67% of individual market policies terminated each year.⁸

Individual market policies have always been one-year contracts between an insurance company and an enrollee. This means that before the Affordable Care Act, many individual market policies changed significantly every year. For all but a small percentage of people in the individual health insurance market, a letter at the end of the year describing policy changes and rate increases was a common occurrence. Furthermore, if coverage was cancelled or rescinded prior to reform, individuals were on their own, with no guarantee that another insurer would allow them to purchase a policy.⁹

The inherent instability in the individual market was one of the principal reasons Congress enacted the Affordable Care Act. The individual market may have worked in the short term for fortunate individuals who were healthy and were less likely to use coverage, but it did not serve the needs of most Americans.

II. The Individual Market After Reform

The ACA establishes new insurance market reforms and consumer protections across the health insurance market. The law requires the guaranteed issue and guaranteed renewal of coverage, meaning that insurance companies will no longer be allowed to deny coverage or carve out plan benefits based on an individual's health status or medical history. The law also prevents insurers from pricing individuals out of the market with exorbitant premiums and rapid premium increases. Beginning in 2014, premiums in the individual and small group market will only be allowed to vary based on age, tobacco use, family size, and geography – all within limited ranges. Insurance

⁶ U.S. Government Accountability Office, *The Range of Base Premiums in the Individual Market by State in January 2013* (July 23, 2013).

⁷ Kaiser Family Foundation, *Update on Individual Health Insurance* (Aug. 2004) (online at <http://kaiserfamilyfoundation.files.wordpress.com/2013/01/update-on-individual-health-insurance.pdf>); and Health Affairs, *Patterns of Individual Health Insurance Coverage, 1996-2000* (Nov. 2004) (online at <http://content.healthaffairs.org/content/23/6/210.full#R14>).

⁸ Department of Health and Human Services, Department of the Treasury, Department of Labor, *Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act*, 75 Fed. Reg. 115 (June 17, 2010) (Interim Final Rule).

⁹ Georgetown University Center on Health Insurance Reforms, *Policy Cancellations – Another Tempest in a Teapot?* (Oct. 28, 2013) (online at <http://chirblog.org/policy-cancellations-another-tempest-in-a-teapot/>).

companies will no longer be allowed to raise premiums based on any other factors, including pre-existing conditions, gender, or medical history.¹⁰

The ACA also requires health plans in the individual market to cover key essential health benefits like hospitalizations, mental health, and prescription drugs. The law places firm caps on the amount of out-of-pocket spending that can be required under an insurance policy, and it bars insurers from placing limits on the amount of coverage a policy will provide in a given year or over the insured's lifetime. These reforms will prevent millions of Americans from facing bankrupting medical expenses because they find out too late that their insurance has harsh limits or does not provide key coverage.¹¹

Despite the importance of these key reforms, the law anticipated that some Americans had insurance in the individual market that they liked and wanted to keep. That is why the law explicitly allowed insurers to grandfather policies in effect prior to the passage of the law. Insurers that elected to grandfather their plans could continue offering policies in effect before the law passed to their current customers, so long as they did not make major changes to benefits or enrollment. This grandfathering provision allowed individuals who liked their plans prior to reform to keep those plans for as long as insurance companies continued to offer the plans.¹²

Many insurers did not take advantage of the grandfathering provision and made changes to their coverage, and many individuals entered the individual market or purchased new plans after the enactment of the ACA. Often, these new or revised plans did not meet the minimum standards set by the ACA. Since the law prohibits insurers from marketing new or revised policies after January 1, 2014, that do not meet these minimum standards, individuals began receiving notices late in 2013 advising them that noncompliant plans could not be renewed. Many of these notices were similar to the annual renewal notices consumers received every year in the individual market and offered coverage in ACA compliant plans into which the individual could be automatically enrolled, but some letters stated that individuals' current plans had been "cancelled."

III. The Effect of Reform on Individuals Previously Insured in the Individual Market

The Associated Press (AP) has reported that 4.7 million Americans received or could expect to receive a cancellation notice from their insurance companies because of the Affordable Care Act.¹³ Despite the fact that these notices typically include an offer of new coverage and that annual notices indicating policy changes are common in the individual market, critics of the law cite this

¹⁰ See e.g. Department of Health and Human Services, *Patient Protection and Affordable Care Act; Health Insurance Market Rules; Rate Review*, 78 Fed. Reg. 39 (Feb. 27, 2013) (Final rule).

¹¹ See e.g. Department of Health and Human Services, *Patient Protection and Affordable Care Act; Health Insurance Market Rules; Rate Review*, 78 Fed. Reg. 39 (Feb. 27, 2013) (Final rule).

¹² Department of Health and Human Services, Department of the Treasury, Department of Labor, *Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act*, 75 Fed. Reg. 115 (June 17, 2010) (Interim Final Rule).

¹³ Associated Press, *Policy Notifications and Current Status, by State* (Dec. 26, 2013) (online at <http://news.yahoo.com/policy-notifications-current-status-state-204701399.html>).

report as evidence that five million individuals who had coverage in 2013 will lose coverage in 2014 as a result of the law. These critics have also claimed that since fewer than five million Americans have to date enrolled in private coverage through the health insurance marketplaces, more Americans will lose coverage next year than will gain it. Even if the AP report is assumed to be correct, this is a deeply misleading and inaccurate characterization.

Complete data on policy renewals and enrollment in new insurance plans are not yet available. But the actual number of individuals who receive a cancellation notice, do not sign up for new insurance in 2014, and lack the option to do so at affordable prices will likely be less than 10,000. Over 99% of the individuals receiving cancellation notices will have the option to renew their 2013 policies, enroll in subsidized coverage through the marketplaces or Medicaid, or purchase a low cost catastrophic plan, and many have already done so.

A. Fifty Percent of the Individuals Receiving Cancellation Notices Have the Option to Renew Cancelled Policies

On November 14, 2013, the Department of Health and Human Services announced a transitional policy that allows individuals who received cancellation notices to renew their 2013 coverage throughout 2014. The policy gave states the authority to determine whether to allow insurers to renew non-ACA compliant 2013 policies for existing policyholders.¹⁴ Under this policy, thirty-seven states have elected to allow renewal of 2013 policies.¹⁵ Of the 4.7 million individuals reportedly receiving insurance cancellations letters, 2.85 million live in states that elected to adopt the Administration's transitional policy to allow insurers to extend 2013 policies through 2014.

Not all insurance companies in these states took advantage of the opportunity to renew their non-ACA compliant plans, but most did. Approximately 2.35 million individuals had 2013 coverage through insurance companies that decided to offer to renew that coverage through 2014. This means that of the estimated 4.7 million cancellations, half have the option to renew their 2013 coverage. Due to this renewal option alone, the estimate of five million losing coverage is more than double the number of individuals who are unable to remain in their existing plans.¹⁶

Of the remaining states where consumers cannot renew their 2013 plans throughout 2014, nine states and the District of Columbia gave insurers the option to renew their 2013 policies early, which would have allowed individuals to remain in non-ACA compliant plans into 2014. In these states, however, the insurers or the individual enrollees elected not to take advantage of this option. Over 850,000 individuals who received cancellation notices live in these nine states and the District of Columbia. Only three states where the AP reported cancellation notices were sent – California,

¹⁴ Letter from Gary Cohen, Director, Center for Consumer Information and Insurance Oversight, Center for Medicare and Medicaid Services, Department of Health and Human Services to Insurance Commissioners (Nov. 14, 2013) (online at <http://www.cms.gov/CCIIO/Resources/Letters/Downloads/commissioner-letter-11-14-2013.PDF>).

¹⁵ Associated Press, Policy Notifications and Current Status, by State (Dec. 26, 2013) (online at: <http://news.yahoo.com/policy-notifications-current-status-state-204701399.html>).

¹⁶ Minority Staff analysis of Associated Press reported data.

Washington, and New York – did not provide insurance companies the option of renewing coverage.¹⁷

In fact, the actual number of individuals who have not renewed or cannot renew coverage with their existing insurers is likely to be significantly smaller than 2.35 million. Even where state policies prevent insurance companies from continuing to offer non-ACA compliant plans or where insurers have opted not to do so, the insurance companies can offer their current policyholders plans that meet the new ACA standards. The insurance companies have strong economic incentives to retain policyholders that they regard as good risks. And the evidence shows that many have had great success in doing so.

In a briefing with Committee staff, one of the largest Blue Cross plans in the nation indicated that they did not expect any of their 2013 enrollees to be without coverage in 2014. This insurer reportedly sent over 300,000 cancellation notices but indicated that company representatives had reached out to their members through the mail and over the phone and presented them with the option to either retain their old plan or enroll in an ACA compliant plan. The company indicated that this outreach was being well received by its customers and that the company was well on its way to re-signing every individual interested in retaining prior coverage.¹⁸

Similarly, one of the nation's largest for-profit insurers told the Committee staff that despite public reports of far larger figures, they had sent actual cancellation notices to less than 2,000 people nationwide. For the overwhelming majority of their individual market enrollees, this insurer automatically enrolled individuals in ACA compliant plans or gave consumers a choice of ACA compliant plans in which they could enroll.¹⁹

B. Sixty Percent of the Individuals Receiving Cancellation Notices Are Eligible for Tax Credits or Medicaid

Another relevant factor is that many individuals with cancelled policies will qualify for subsidies to buy health insurance through the new health insurance marketplaces or to enroll in Medicaid. These individuals are finding that these options provide better coverage at a lower cost than they previously had.²⁰

The Affordable Care Act makes tax credits available through the health insurance marketplaces that can significantly reduce the cost of coverage. The tax credits are available to

¹⁷ Minority Staff analysis of Associated Press reported data and New York Times, *States Where Insured Could Renew Plans Before Change by Obama* (Nov. 26, 2013) (online at <http://www.nytimes.com/interactive/2013/11/20/us/which-states-will-allow-old-health-policies-to-be-renewed.html>).

¹⁸ Briefing from Insurance Company to House Energy and Commerce Committee Majority and Minority Staff (Dec. 20, 2013).

¹⁹ Briefing from Insurance Company to House Energy and Commerce Committee Majority and Minority Staff (Dec. 19, 2013).

²⁰ See e.g. National Journal, *Obamacare's Unlikely Winners* (Dec. 17, 2013) (online at <http://www.nationaljournal.com/politics/obamacare-s-unlikely-winners-20131217>).

individuals and families with incomes between 100% and 400% of the federal poverty limit, which is between \$23,000 and \$94,000 per year for a family of four. The tax credits reduce the cost of premiums on a sliding scale from 2% of household income for lower income individuals to no more than 9.5% of household income for individuals closer to 400% of the poverty limit. The law also expands Medicaid to individuals below 138% of the federal poverty limit. Medicaid provides quality health coverage at very low cost to beneficiaries.

According to the Kaiser Family Foundation, 48% of current individual market enrollees are eligible for tax credits through the marketplaces and an additional one million are eligible for Medicaid.²¹ The analysis is based on an estimate that approximately eleven million people have primary health insurance coverage through the individual market. When eligibility for subsidies and eligibility for Medicaid are combined, 60% of current individual market enrollees can expect to be eligible for subsidized health insurance that meets the quality standards of the ACA.

This factor significantly reduces the number of individuals adversely affected by cancellation notices. If the AP report is accurate, there are at most 2.35 million individuals who will receive cancellation notices and do not have the option to renew their 2013 coverage. Sixty percent of these individuals – over 1.4 million – will be able to buy subsidized coverage through the new health exchanges or enroll in Medicaid. This leaves less than one million individuals who are both unable to renew their 2013 policies and unable to purchase subsidized coverage through the marketplaces.

C. Ninety-Nine Percent of the Individuals Receiving Cancellation Notices and Unable to Renew Have Access to Catastrophic Coverage

On December 19, 2013, the Department of Health and Human Services announced that individuals who receive notices indicating that their 2013 policies would be cancelled would be eligible to purchase catastrophic health plans.²² Although higher quality bronze and silver level coverage can be significantly less expensive when tax credits are taken into account, catastrophic plans often have the least expensive premiums in a given state. These plans were previously only available for individuals under thirty and for individuals who qualified for a hardship exemption. In order to assure a smooth transition to coverage in 2014, the Administration determined that individuals who received cancellation notices and did not believe their other coverage options were affordable would be eligible for a hardship exemption and the catastrophic plans.

These catastrophic plans are widely available. In the twelve states and the District of Columbia where individuals who received cancellation notices are unable to renew 2013 coverage, catastrophic plans are available in all but eighteen counties of Washington State.²³ In the other

²¹ Kaiser Family Foundation, *Quantifying Tax Credits for People Now Buying Insurance on Their Own* (Aug. 14, 2013) (online at <http://kff.org/report-section/quantifying-tax-credits-for-people-now-buying-insurance-on-their-own-methodology/>).

²² U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services, *Options Available for Consumers with Cancelled Policies* (Dec. 19, 2013) (online at <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/cancellation-consumer-options-12-19-2013.pdf>).

²³ It is important to note that in some Washington Counties, Bronze tier plans are less expensive than catastrophic plans and offer better coverage. So it is likely that many of the

eleven states and the District of Columbia, a catastrophic plan is available to all eligible residents. In total, 99% of the individuals who receive cancellation notices in the states where insurers are not offering to renew 2013 coverage will have the option of buying low-cost catastrophic coverage.²⁴

The individuals with health insurance in the individual market in these eighteen counties in Washington represent approximately 8% of the insured population of the state.²⁵ If individuals who receive cancellation notices are evenly distributed throughout the state, there will be only 24,000 individuals in these eighteen counties who receive cancellation notices. Of these 24,000 individuals, 60% are likely to be eligible for tax credits or Medicaid. This leaves fewer than 10,000 people nationwide who would be unable to renew their cancelled policies, unable to receive subsidized coverage through the marketplace or Medicaid, and unable to enroll in catastrophic coverage. This represents less than 0.2% of the 4.7 million people who will reportedly receive cancellation letters.

IV. Conclusion

Since its consideration in Congress in 2009, opponents of the Affordable Care Act have repeatedly misled the public about the law. Previous false claims have included the assertion that the law requires death panels, that the law represents a government take over of health care, and that law has caused millions to lose their jobs.

The assertion that the law will cause five million individuals who currently have coverage in the individual market to go without coverage in 2014 is similarly baseless. Of the reported 4.7 million people who receive cancellation notices, 2.35 million should have the option to renew their 2013 coverage. An additional 1.4 million should be eligible for tax credits through the marketplaces or Medicaid, which will provide them more comprehensive coverage at lower rates. Of the remaining individuals, only 10,000 individuals in 18 counties in a single state would be unable to access a catastrophic plan, and many of these individuals may sign up for coverage through their state exchange.

individuals in these 18 counties who are eligible for catastrophic coverage can get better coverage at better prices in a Bronze plan.

²⁴ Minority staff analysis of healthcare.gov plan information and state insurance regulator plan information.

²⁵ U.S. Census Bureau, 2008-2012 American Community Survey 5-Year Estimate, Table S2701: Health Insurance Coverage Status (Accessed Dec. 29, 2013).