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"HealthCare.gov: A Review of Operations and Enrollment"

Testimony of:

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HealthCare.gov: Case Study of CMS Management of the Federal Marketplace

Good morning, Chairman Hatch, Ranking Member Wyden, and other distinguished Members of the Committee. I am Erin Bliss, Assistant Inspector General for Evaluation and Inspections in the Office of Inspector General (OIG), U.S. Department of Health and Human Services (HHS or the Department). Thank you for the opportunity to testify about OIG's case study reviewing the management of the Federal Marketplace website HealthCare.gov by the Centers for Medicare & Medicaid Services (CMS).

OIG's mission is to protect the integrity of HHS programs and the health and welfare of the people they serve. We advance our mission through a nationwide network of audits, evaluations, investigations, enforcement actions, and compliance efforts. OIG has identified oversight and operation of the Health Insurance Marketplaces as a Top Management Challenge for HHS.

The case study is an important component of our marketplace oversight strategy. It primarily examines implementation of HealthCare.gov, the consumer facing website for the Federal Marketplace, by CMS from passage of the Patient Protection and Affordable Care Act (ACA) in 2010 through the second open enrollment period in 2015. As required by the ACA, HealthCare.gov is the Federal website that facilitates purchase of private health insurance for consumers who reside in States that did not establish health insurance marketplaces. At its highly-publicized launch on October 1, 2013, and for some time after, HealthCare.gov users experienced substantial website outages and technical malfunctions. After corrective action by CMS and contractors following the launch, CMS ended the first open enrollment period with 5.4 million individuals having selected a plan through the Federal Marketplace.

OIG's Strategy for Oversight of the Marketplaces

OIG has completed and planned a significant body of audits and evaluations regarding the Federal Marketplace and other ACA provisions of high interest and concern to the Department, Congress, and other stakeholders. OIG's marketplace oversight strategy focuses on four areas that we have determined to be most critical: payment, eligibility, management and administration, and security.

My testimony focuses on the OIG report "HealthCare.gov: Case Study of CMS Management of the Federal Marketplace" (OEI-06-14-00350) released on February 23, 2016. The case study report evaluates CMS's implementation and management of HealthCare.gov. Consistent with the OIG's statutory purpose to promote economy, efficiency, and effectiveness in the administration of Departmental programs, the rollout of HealthCare.gov presented a unique opportunity to assess CMS's management and operations. The implementation of Healthcare.gov provides lessons that will be increasingly important as the success of Government programs becomes more dependent on the effective intersection of policy, technology, and management. The case study enabled OIG to draw conclusions about factors that contributed to the website's breakdown and subsequent improvement, and lessons learned to promote effective Government operations moving forward.

In summary, our case study report provides three takeaways about the development and implementation of HealthCare.gov, presented in chronological order over a 5-year period from passage of the ACA through the Marketplace's second open enrollment period:

> Development and Launch: The poor launch of the website was caused by many avoidable organizational missteps, in addition to problems with website technology;
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> Correction through Second Open Enrollment Period: After the breakdown, CMS improved processes and worked with contractors and others to fix the website, and this approach led to broader organizational changes focused on leadership, decisionmaking, and communication; and
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> Call for Continued Progress: Challenges remain in managing the Federal Marketplace and improving operations and services provided by Healthcare.gov, including issues identified in related OIG reports. CMS must continue applying lessons learned from HealthCare.gov to complete this work and address new challenges as they arise.

Background on the Federal Marketplace and Healthcare.gov

The ACA was signed into law on March 23, 2010, and amended on March 30, 2010.[1] The ACA required the establishment of a health insurance exchange (marketplace) in each State that would be operational on or before January 1, 2014.[2] For States that elected not to establish their own

[1] P.L. No. 111-148 (Mar. 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010, P.L. No. 111-152 (Mar. 30, 2010), collectively referred to as the Affordable Care Act (ACA).

[2] Ibid. § 1311(a), (b).

marketplaces, the Federal Government was required to operate a marketplace on behalf of the State.[3]

The marketplaces provide those seeking health insurance a single point of access to view qualified health plan (health plan)[4] options, determine eligibility for coverage, and purchase insurance coverage. Individuals also use the marketplaces to determine eligibility for insurance affordability programs (e.g., Medicaid, premium tax credits, and cost-sharing reductions) that lower insurance premiums and costs of care.[5] At the beginning of the third open enrollment period, November 1, 2015, the Federal Government operated a marketplace (the Federal Marketplace) for 38 States, including 7 State-partnership marketplaces for which HHS and the State share responsibilities for core functions and 4 federally supported State marketplaces in which States perform most marketplace functions.[6] Thirteen States (including the District of Columbia) operated their own State marketplaces.[7]

CMS has had responsibility for managing the marketplace programs since January 2011.[8] To implement the ACA provisions related to the marketplaces, CMS has worked in collaboration with public and private entities, including other Federal agencies as required by the ACA,[9] State Medicaid agencies, private contractors, health insurance issuers (issuers), and not-for-profit organizations. As it continues to operate the Federal Marketplace, CMS must ensure accurate eligibility determinations, process enrollments, facilitate Medicaid enrollment for those who qualify, and communicate timely and accurate information to issuers and consumers. CMS also provides support functions for the State marketplaces and administers Federal financial assistance and premium stabilization programs related to the marketplaces.

HealthCare.gov is the public website for the Federal Marketplace through which individuals can browse health insurance plans, enroll in plans, and apply for Federal financial assistance to help cover their premiums and other costs. This is the consumer-facing, or "front end," portion of the marketplace. The "back end" systems of the Federal Marketplace perform functions such linking consumers' information from HealthCare.gov to multiple supporting systems that facilitate the enrollment process and payment to issuers.

[3] Ibid. § 1321(c).

[4] Private health insurance plans certified as meeting certain standards and covering a core set of benefits including doctor visits, preventive care, hospitalization, and prescriptions.

[5] ACA §§ 1401, 1402.

[6] The Henry J. Kaiser Family Foundation, *State Decisions on Health Insurance Marketplaces and the Medicaid Expansion*, December 17, 2015. Accessed at http://kff.org/health-reform/state-indicator/state-decisions-for-creating-health-insurance-exchanges-and-expanding-medicaid/ on January 6, 2016. CMS, *Hawaii: For 2016 insurance coverage, use HealthCare.gov to apply and enroll*. Accessed at https://www.healthcare.gov/hawaii-2016/ on January 6, 2016.

[7] Ibid.

[8] 76 Fed. Reg. 4703 (Jan. 26, 2011).

[9] ACA §§ 1411, 1412.

Key components of HealthCare.gov and the Federal Marketplace include an identity management system to enable consumers to create accounts and verify their identities; the Data Services Hub, which routes information requests from the marketplaces to other Federal agencies and back, such as the Internal Revenue Service (IRS); and the Federally-facilitated Marketplace (FFM) that comprises the core of the overall system. The FFM includes three main subcomponents to facilitate various aspects of acquiring health insurance: eligibility and enrollment determinations, plan management, and financial management.

OIG's Case Study Approach

The objective of the case study was to gain insight into CMS implementation and management of the Federal Marketplace, focusing primarily on HealthCare.gov. The case study identifies organizational factors that contributed to the website's poor launch and subsequent improvement, and lessons for employing core management principles in navigating program implementation and change. These organizational factors and the lessons learned identify principles that can contribute not only to improving the Marketplace, but also contribute to improving the economy, efficiency, and effectiveness of the Department's other programs and operations.

Our review examined the 5-year period from March 2010 to February 2015, providing a chronology of events and identifying factors that contributed to the website's breakdown at launch, its recovery following corrective action, and implementation of Healthcare.gov through the second open enrollment period. In conducting this review, we interviewed current and former HHS and CMS officials, staff, and contractors involved with the development and management of the website. We also reviewed thousands of HHS and CMS documents, including management reports, internal correspondence, and website development contracts.

OIG Findings From Preparation and Development of HealthCare.gov (March 2010 – September 2013)

The development of HealthCare.gov faced a high risk of failure, given the technical complexity required; the fixed deadline; and a high degree of uncertainty about mission, scope, and funding. Still, we found that HHS and CMS made many missteps throughout development and implementation. Most critical was the absence of clear leadership, which caused delays in decisionmaking, lack of clarity in project tasks, and the inability of CMS to recognize the magnitude of problems as the project deteriorated.

The HealthCare.gov project encountered problems at the beginning of development that set the stage for the poor launch. Implementing the Federal Marketplace required substantial policy development and decisionmaking to inform technical planning and implementation of the website. This included not only writing regulations to govern the marketplaces, but also establishing partnerships with other entities involved in implementation, such as other departments, States, and issuers. This policy work was made more difficult and protracted by a lack of certainty regarding the mission, scope, and funding for the Federal Marketplace and

website and by varying internal and external expectations for the marketplaces. Delays caused by the lack of certainty used valuable time and made an already compressed timeframe more difficult.

Additionally, the project's poor transition to CMS after 10 months in the HHS Office of the Secretary resulted in problems that lasted long after the move. Initial work in the HHS Office of the Secretary made significant strides in establishing the policy framework, but did not focus attention on planning for the project's longer-term technical and operational needs. CMS had to reconfigure roles and timelines, determine how it would leverage its resources, and begin work behind schedule. Further, while CMS's infrastructure and experience provided greater resources for the project, it led to the Federal Marketplace operating within a large bureaucratic structure that separated contract, policy, and technical staff, further diffusing the project team and making implementation more complex. Our review found that CMS leadership failed to foster effective collaboration and communication, particularly between CMS policy and technical staff and with contractors.

Lack of clear project leadership led to project diffusion and poor coordination. From the beginning and well into the project, CMS did not assign clear project leadership, which was particularly problematic for the policy and technological work needed to set up HealthCare.gov. For example, CMS continued to make changes to the project's business requirements that then changed technical aspects of the website build, in large part because mid-level staff and managers did not have clear direction or the authority to make decisions. Effective leadership would have enabled a comprehensive view across the project to better identify problems and determine priorities. Instead, lack of a single lead entity inhibited progress assessments and changing course as needed.

IT contracting for the FFM encountered significant problems. CMS mismanagement of the key HealthCare.gov contract continued throughout the website build. CMS did not employ an acquisition strategy to develop contracts and solicit contractors, a tool used to precisely assess project needs and make a systematic assessment of the contractors' ability to meet those needs. Further, due to CMS's contracting process and uncertainty about funding and specifications, CMS received a limited number of bids for the contract. CMS hired CGI Federal to build the core of the overall FFM system, as well as the online application for consumers. CMS oversight of the contract was disjointed and spread across different divisions with little coordination. CMS made frequent changes to contract specifications, and did not effectively communicate these changes or adequately assess how they would affect staffing and schedules.

Despite many warnings of substantial problems, CMS moved forward without serious discussion of delaying the launch. Throughout the course of building HealthCare.gov, staff at HHS and CMS, as well as outside entities, identified problems with the program and warned

that these problems warranted action. In all, CMS received 18 "documented warnings" of concerns regarding HealthCare.gov between July 2011 and July 2013. These documented warnings contained substantial detail about the project's shortcomings and were formally submitted to CMS senior leadership or project managers at CMS. However, these reports were not shared broadly due to diffuse leadership and poor communication. As a result, no one person in CMS had a comprehensive view of the poor progress and, given the problems were complex, information became unwieldy and difficult to prioritize. Without a single comprehensive view, CMS leadership and staff took little action to respond to warnings, remained overly optimistic about the launch, and developed few contingency plans. As the project degraded further and problems became more well-known, CMS officials and staff became desensitized to bad news about progress.

In early 2013, CMS attempted to take corrective action, but these efforts were largely unsuccessful because they were not fully and diligently executed. For example, after criticism that there was no clear leadership, CMS assigned its newly appointed Chief Operating Officer in early 2013 to head the Federal Marketplace program, but the assignment was not formally announced, the position was not supported by clear responsibilities, and the designee had an already large responsibility as CMS Chief Operating Officer. As another example, a CMS advisor recommended that the project hire a technical systems integrator to coordinate operations, and CMS and contractors discussed this need at several points in the project. However, in correspondence and congressional testimony, it was clear CMS technical leadership perceived that CMS itself was already serving as the systems integrator.[10] CGI Federal managers reported that the lack of a true systems integrator created extra work that was outside the scope of their contract.

Due to the poor contract management and ensuing delays, the final months of development and implementation for HealthCare.gov were chaotic. CMS continued to make changes to business requirements and technical specifications well into 2013, delaying development to a point where it was not feasible to complete and test the website as initially planned. Critical tasks went uncompleted, including testing website functionality and security and ensuring adequate capacity for users. CMS continued with the same plans for a full launch. Changing the project's path would have required a leader or team to conduct a comprehensive assessment of status, and to either possess the authority to alter tasks and processes or to fully communicate that assessment to leaders with authority. Instead, CMS and contractors continued with the initial strategy and goals, falling further behind schedule, with largely the same diffuse leadership structure, staffing, and project plan.

[10] U.S. House of Representatives, House Energy and Commerce Committee, *PPACA Implementation Failures: Answers from HHS*, October 30, 2013.

By the time CMS took more drastic action to change the project's path in August and September of 2013, it was too late to adequately affect change, given the substantial need for progress and improved execution. CMS cut functions that were at one time considered critical to a successful launch, such as the Spanish language and SHOP websites, to divert resources to the main build. This occurred in the last few weeks before launch, when developers and testers reported they were months behind schedule. The rush to launch affected all aspects of the build, including moving forward with only an interim authorization to operate and requesting double computing capacity late in September. CMS sought to deliver a version of Healthcare.gov that had only the minimum necessary functions to operate, but did so without a comprehensive and thoughtful strategy.

OIG Findings From Launch, Correction and Turnaround of HealthCare.gov (October 2013 – February 2015)

HealthCare.gov launched at midnight on October 1, 2013, and experienced substantial problems within hours. The website received five times the number of expected users, but the problems involved more than capacity. The website entry tool was overwhelmed, and software code defects caused malfunctions. Fixing the website required substantial corrections to the software code and to further increase capacity. Compounding problems further, some responsible staff were furloughed when the Government shut down on October 1, 2013.

CMS began corrective action, reorganizing the work to focus on key priorities and to improve execution. CMS and contractors quickly brought in new staff and expertise following the launch, developing an all-hands environment wherein fixing problems with HealthCare.gov was the key agency mission. Most of the additional staffing came to the project within 3 weeks, including technological and project management experts from CMS, contractors, and the private sector. By late October, CMS and contractors began to move command center operations, establishing what would become the formal HealthCare.gov command center—the Exchange Operations Center (XOC). The structure at the XOC was based on active coordination between technical and policy staff, a key component missing during the website preparation and development. It also employed comprehensive website monitoring tools to identify problems and assess performance. The widespread attention to the launch and the number of parties involved could have created bureaucratic paralysis, but those working on the repairs directed their attention to immediate action and improved the HealthCare.gov website substantially in 2 months.

Before the launch, artificial distinctions and divisions among staff contributed to poor collaboration, lack of communication, disjointed management, and slow progress. Following the launch, first with the technological team and then more broadly, CMS promoted a culture that was "badgeless" and "titleless," working as a single team regardless of employer and job title.

According to CMS, this change in culture fostered a greater sense of mission and teamwork that further improved daily operations.

CMS initiated organizational change, such as a deeper integration between policy and technological tasks. The Federal Marketplace and HealthCare.gov needed expertise and coordination across CMS divisions and many contractors. CMS integrated the various functions within the project, which improved daily work. This integration allowed CMS to identify and address problems more quickly, make informed decisions, and provide clearer direction to those involved in the website development and operations. CMS also assigned clear project and technical leadership, hiring a technical systems integrator, and restructuring its divisions to allow for greater visibility and oversight of technical staff and contractors by senior leadership.

This greater sense of "operational awareness" also prompted CMS to plan for and mitigate potential problems by considering contingencies, building redundant systems, and increasing capacity. CMS's lack of contingency plans before the launch meant that CMS had few options when the functionality and computing capacity of HealthCare.gov encountered problems. Essential to success was identifying possible problems and developing systems and strategies specific to each concern.

By the end of the first open enrollment period, CMS had a stable website that functioned well at high capacity, but some planned components had yet to be completed. CMS immediately began preparation for the second open enrollment period to begin seven months later. CMS practiced what officials called "ruthless prioritization" of tasks to focus on the most urgent needs and functionality. This strategy served to align goals with available resources, guide daily work and accountability, and temper unrealistic expectations about results. According to CMS, officials developed a list of technological needs, then debated and cut about half of the items requested. Cuts included key elements of the Federal Marketplace system, such as completion of the automated financial management system.

This process for strategic and organized prioritization marked a significant improvement over the rushed reprioritization efforts that occurred prior to launch. Project documentation indicated that in 2013, CMS and contractors were frantic to establish basic website functionality. They pushed forward faulty and untested functionality and hoped to fix it after the launch. Project documentation indicated that in 2014, CMS maintained a more disciplined project schedule, meeting deadlines with a goal to implement only technology that had what project documentation referred to as optimal functionality, or "perfect execution." When this standard could not be met in time, CMS identified problems more quickly to allow time to employ contingency plans. CMS stated that this higher standard led to improved practices overall, such as targeting earlier deadlines for delivery and imposing stricter testing standards. For example, the new HealthCare.gov consumer application, App 2.0, was tested through a "soft launch" prior to open enrollment. This approach meant that CMS did not always deliver

according to schedule, but was able to test the application's functionality prior to use in the second open enrollment.

CMS documentation indicated the technical aspects of the website and supporting systems performed well during the second open enrollment period, with no system outages and few consumer reports of problems applying for coverage or selecting plans. CMS further solidified project leadership, worked to better align project goals with resources, and renewed its focus on contract management, particularly emphasizing the agency-contractor relationship. As of February 1, 2016, CMS reported that over 9.6 million consumers had selected a health insurance plan through the Federal Marketplace or had their coverage automatically renewed.[11]

Call for Continued Progress

CMS continues to face challenges in implementing the Federal Marketplace, and in improving operations and services provided through HealthCare.gov. As CMS moves forward, challenges include improving the website and systems as planned, such as completing the automated financial management system and improving consumer tools to select plans. CMS must also continue to address areas OIG has identified in past reports as problematic or needing improvement, including contract oversight, the accuracy of payments and eligibility determinations, and information security controls.

CMS concurred with OIG's call for continued progress, stating that it will continue to employ the lessons identified in the case study and that, since OIG's review, it has implemented several initiatives to further improve its management. The 10 lessons articulated in the report comprise core management principles that could apply to other organizations. They include assigning clear project leadership, encouraging staff to identify and communicate problems, and better integrating policy and technological work. OIG will continue to monitor CMS's actions to address specific recommendations from our work, as well as its overall management of this program.

In addition to the lessons learned from the case study, OIG has also completed 12 audits and evaluations of the Federal Marketplace, which combined make over 30 recommendations to CMS. We continue to monitor CMS's progress toward implementing these recommendations. OIG has also published numerous other reports related to State marketplaces and other significant programs created by the ACA. All of our ACA-related work is available at: http://oig.hhs.gov/reports-and-publications/aca/.

OIG has ongoing and planned work in several areas related to marketplaces, including examining the accuracy of financial assistance payments for individual enrollees for the Federal

[11] CMS, *Health Insurance Marketplace Open Enrollment Snapshot – Week 13*, February 4, 2016. Accessed at https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2016-Fact-sheets-items/2016-02-04.html on February 8, 2016.

Marketplace, analysis of CMS's oversight of the State marketplaces, and a review of the funding that established the Federal Marketplace. We are also currently developing work related to the premium stabilization programs. In addition, OIG has established relationships with its law enforcement partners to investigate fraud and closely monitor activities and concerns related to the marketplaces.

Conclusion

The Department, and the health care system generally, are in the process of implementing major changes to health care delivery. Most of those changes will depend on the successful implementation of information technology, but success will require more than just ensuring that the right code is written or that the right technology is purchased. As our case study demonstrates, whether these changes will result in more effective, efficient, and economic health care and human service programs will depend on the interaction of technology, management, and policy.

OIG believes the lessons learned identified in the case study may be beneficial to the Department beyond the operation and management of the Federal Marketplace. Assessing Departmental management will continue to be a vital component of OIG's oversight of Department programs going forward. Many programs or projects that OIG oversees will not require the same level of coordination or resources required of the Federal Marketplace; however, the principles identified in the Case Study can help foster the effectiveness and efficiency of Departmental and program management.

The growing intersection of programs and technology requires OIG to grow its own capabilities to provide effective oversight. OIG is building necessary expertise in data analytics, information technology, and forensic accounting. Increasing our proficiencies and resources in these disciplines will allow OIG to provide meaningful analysis to inform decision-makers and program managers.

Thank you again for inviting OIG to speak with the Committee today to share the results of the case study reviewing CMS management of HealthCare.gov. With your permission, I would like to submit the case study report for the record and I would be happy to answer any questions the Committee may have.