

Congress of the United States

House of Representatives

Washington, D.C. 20515

July 25, 2017

The Honorable Thomas E. Price
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Price:

We are writing to request additional information regarding the Department of Health and Human Services' (HHS) Assistant Secretary for Planning and Evaluation (ASPE) analysis, "Estimating the Effects of the Consumer Freedom Amendment on the Individual Market." We are concerned by HHS's lack of transparency about how this study was conducted, and we have questions about its opaque—and in at least some cases, flawed—methodology. News reports suggest that McKinsey & Company may have been contracted to provide this analysis to ASPE on the so called "Consumer Freedom Amendment" that was proposed by Senators Ted Cruz and Mike Lee, although both the company and HHS have declined to provide further information.¹ The study's conclusions contradict assessments of the Cruz-Lee amendment offered by insurers, actuaries, and economists – all of whom have concluded that the proposal would destabilize the individual market and result in skyrocketing premiums for individuals with pre-existing conditions.

The ASPE analysis consists of a series of graphs that include no references to the underlying datasets and are based on vague and, in some cases, potentially faulty assumptions. For instance:

- The graphs purporting to project Total Enrollment under the Cruz-Lee amendment provide no indication of what baseline is being used for enrollment levels under current law.
- The analysis assumes the continued funding of cost-sharing reduction (CSR) payments to insurers, despite the Trump Administration's continued refusal to commit to making these payments and despite the fact that BCRA eliminates CSRs.
- The analysis appears to compare apples to oranges when estimating individual market premiums under the Cruz-Lee Amendment as compared to current law, by selecting projected premiums for a 40-year-old individual and comparing them against current law premiums based on actual enrollment (which skews older than 40 years of age).²

¹ *McKinsey Produced Controversial HHS Analysis, Sources Say*, Politico Pro (July 19, 2017).

² U.S. Department of Health and Human Services, Assistant Secretary for Planning and Evaluation, *Estimating the Effects of the Consumer Freedom Amendment on the Individual Market* (July 15, 2017) (<https://aspe.hhs.gov/system/files/pdf/257301/DraftModelOutput.pdf>).

Additionally, the analysis relies on “proprietary elasticity estimates” as the basis for comparison between premium costs and enrollment under the Cruz-Lee amendment and current law, but there is no explanation of these elasticity estimates in the document. These elasticity estimates, which estimate how price sensitive individuals will be in their health insurance purchasing decisions, can result in wildly varying enrollment projections. Without clarification on these assumptions, it is hard to evaluate the analysis.

The vague and unrealistic assumptions that underlie HHS’s analysis of the Cruz-Lee amendment raises serious concerns regarding the merit of the resulting conclusions. To better understand the agency’s process and methodology for conducting this analysis, we write to request a briefing from ASPE, as well as answers to the following questions:

1. Please provide an explanation of the role McKinsey & Company played, and any other outside entity or organization, in conducting the study.
 - a. Why did the agency decide to request that McKinsey & Company conduct this analysis? Did the agency conclude that it did not have the capacity to conduct this analysis in-house?
 - b. Please provide a copy of the contract with the McKinsey & Company, as well as any relevant contract modifications.
 - c. Please provide a copy of any communications, including emails, with McKinsey & Company, including any communications about the scope of the analysis, and any instructions regarding the methodology and any applicable assumptions to be used.
2. Please provide an explanation of the methodology used to conduct the analysis, including a detailed explanation of any “proprietary” methods, models, and estimates.
3. Please provide a detailed explanation of how the “single risk pool” requirement would operate across ACA-compliant and non-ACA compliant plans, and an explanation of why the Consumer Freedom Option would not result in segmentation of the individual market, as concluded by actuaries, insurance companies, and health insurance experts.
4. Please provide the methodology used to arrive at the assumptions described on page 16, including:
 - a. The starting point for 2017 non-ACA enrollment;
 - b. The percentage of claim reductions due to essential health benefit waivers;
 - c. Federal funding for reinsurance from 2020-2026; and
 - d. No change in population growth, economic growth, or medical trend.

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5. The underlying data for each graph, including total enrollment, federal outlays for each year from 2017 to 2024, and individual market monthly premiums.
6. Please explain how ASPE staff or others in the Department altered McKinsey's work product, data or analysis. Were there any excluded analyses?

Your timely assistance in this matter is greatly appreciated. We request a response no later than August 6, 2017. Should you have any questions, please contact Una Lee of the Energy and Commerce Committee Minority Staff at (202) 225-3641 or Melanie Egorin of the Ways and Means Committee Minority Staff at (202) 225-4021.

Sincerely,



Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce



Richard E. Neal
Ranking Member
Committee on Ways and Means

Congress of the United States

House of Representatives

Washington, D.C. 20515

July 25, 2017

Gary Pinkus
Managing Partner
McKinsey & Company in North America
555 California Street
Suite 4700
San Francisco, CA 94104

Dear Mr. Pinkus:

We are writing to request additional information regarding McKinsey's involvement in the Department of Health and Human Services' (HHS) Assistant Secretary for Planning and Evaluation (ASPE) analysis, "Estimating the Effects of the Consumer Freedom Amendment on the Individual Market." We are concerned by HHS' lack of transparency about how this study was conducted and we have questions about its opaque—and in at least some cases, flawed—methodology. News reports suggest that McKinsey & Company may have been contracted to provide this analysis to ASPE on the so called "Consumer Freedom Amendment" that was proposed by Senators Ted Cruz and Mike Lee, although both the company and HHS have declined to provide further information.¹ The study's conclusions contradict assessments of the Cruz-Lee amendment offered by insurers, actuaries, and economists – all of whom have concluded that the proposal would destabilize the individual market and result in skyrocketing premiums for individuals with pre-existing conditions.

The ASPE analysis consists of a series of graphs that include no references to underlying datasets and are based on vague and, in some cases, potentially faulty assumptions. For instance:

- The graphs purporting to project Total Enrollment under the Cruz-Lee amendment provide no indication of what baseline is being used for enrollment levels under current law.
- The analysis assumes the continued funding of cost-sharing reduction (CSR) payments to insurers, despite the Trump Administration's continued refusal to commit to making these payments and despite the fact that BCRA eliminates CSRs.
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² U.S. Department of Health and Human Services, Assistant Secretary for Planning and Evaluation, *Estimating the Effects of the Consumer Freedom Amendment on the Individual*

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The vague and unrealistic assumptions that underlie HHS’s analysis of the Cruz-Lee amendment raises serious concerns regarding the merit of the resulting conclusions. To better understand McKinsey & Company’s role in conducting this analysis, as well as the underlying methodology, we write to request a briefing from the relevant principals at McKinsey, as well as answers to the following questions:

1. Please provide an explanation of the role McKinsey & Company played in conducting the study.
 - a. Which division and which personnel within McKinsey & Company were involved in producing this analysis? Please provide all applicable curriculum vitae, as well as any other documentation relevant to the individuals’ qualifications for conducting this study.
 - b. Please provide a copy of the contract with the Department, as well as any relevant contract modifications.
 - c. Please provide a copy of any communications, including emails, with the Department, including any communications about the scope of the analysis, any instructions regarding the methodology and any assumptions to be used.
2. Please provide an explanation of the methodology used to conduct the analysis, including a detailed explanation of any “proprietary” methods, models, and estimates.
3. Please provide a detailed explanation of how the “single risk pool” requirement would operate across ACA-compliant and non-ACA compliant plans, and an explanation of why the Cruz-Lee amendment would not result in segmentation of the individual market, as concluded by actuaries, insurance companies, and health insurance experts.
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