

United States Senate

WASHINGTON, DC 20510

September 28, 2013

COMMITTEES:
ENERGY AND NATURAL RESOURCES
COMMERCE, SCIENCE, AND
TRANSPORTATION
BANKING, HOUSING, AND
URBAN AFFAIRS
SPECIAL COMMITTEE ON AGING
VETERANS' AFFAIRS

The Honorable Elaine Kaplan
Acting Director
Office of Personnel Management
1900 E Street, NW
Washington, D.C. 20415

Dear Acting Director Kaplan:

I appreciate you taking the time out of your schedule to brief me and my staff in response to the concerns I've raised in correspondence with your agency regarding proposed changes to the Federal Employees Health Benefits Program (FEHBP) coverage for Members of Congress and their staff. Again, I would like to reiterate my request that the Office of Personnel Management (OPM) clearly mandate in its final rule that all Congressional staff, including Committee and Leadership, be subject to the consequences of ObamaCare.

While I appreciated you acknowledging my correspondence and sitting down with me to walk me through OPM's proposed rule, I respectfully request a written response to the concerns raised in my letters and in my meeting with you.

1. Part 890.501 of your proposed rule concerning government contributions gives lawmakers and staff special treatment under the exchange. Please provide me with a detailed justification for why you proposed allowing government contributions calculated at the same level as currently offered under FEHBP.
2. In light of OPM's announcement indicating that you may not issue a final rule until after October 1 when enrollment is scheduled for the health care exchange under ACA, how does OPM plan to act in accordance with public law, which states that the health care exchange need to be functioning and online by October 1?
3. Do you believe there is a need to delay the full implementation of the health care exchange?
4. Provide me a detailed list of all conversations or negotiations you had with any staff members of Senate or House Leadership when crafting your proposed rule specifically, the provision giving each Member of Congress the authority to determine who on their staff goes to the Exchange. If you engaged in any discussions - both formal and informal - with Leadership staff was there any undue pressure received from staff during these discussions? Do you believe this to be a conflict of interest?

The absence of any regulatory certainty from OPM concerns me. I maintain my position that OPM missed an opportunity to provide clarity to ensure that if every American must be

subject to ObamaCare, then all Members of Congress, their staff, you, and all political appointees must be included in this onerous mandate as well.

I request that you respond to this letter by October 3, 2013.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dean Heller". The signature is fluid and cursive, with the first name "Dean" written in a larger, more prominent script than the last name "Heller".

DEAN HELLER
U.S. Senator