

United States Senate

WASHINGTON, DC 20510

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VETERANS' AFFAIRS

September 13, 2013

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

Dear Acting Director Kaplan:

I write to you today in follow up to my previous letter dated August 28, 2013, regarding your proposed rule to amend the Federal Employees Health Benefits Program (FEHBP) coverage for Members of Congress and their staff. I would like to first express my disappointment with your agency's lack of response to my stated concerns. In addition, 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. I firmly believe that OPM missed an opportunity to provide the necessary clarity to ensure that all Congressional staff play by the same rules as the American taxpayer.

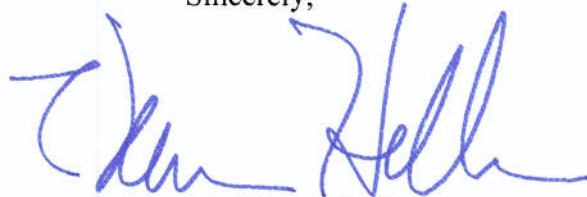
Since my last letter, in the absence of regulatory uncertainty, I have cosponsored legislation (S.1497) to require all Members of Congress, their staff, the Executive Branch, and all political appointees go into the ObamaCare health exchange without the help of taxpayer subsidies. I urge you to implement the same policy as you issue your final rule in order to comply with Section 1312 (d) (3) (D) of the Patient Protection and Affordable Care Act (ACA). I believe that all Members of Congress, staff, and political appointees should be beholden to the same requirements under the law as the American taxpayer. In addition, I do not believe they should receive any government-funded contribution greater than what they would receive if they were not a federal employee. I am concerned that Part 890.501 of your proposed rule concerning government contributions gives lawmakers and staff special treatment under the exchange. I respectfully encourage you to amend this section and to provide me with a detailed justification for why you proposed allowing government contributions calculated at the same level as currently offered under FEHBP.

I am also concerned with OPM's recent 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. It serves as further evidence that this law is not ready to be fully implemented. In light of this announcement, 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? Do you believe there is a need to delay the full implementation of the health care exchange?

I maintain my position that I have a deep concern for the implementation of the health care exchange. Despite this, 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 kindly request that you provide a response to my previous letter, as well as this one, by September 27.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dean Heller". The signature is fluid and cursive, with the first name "Dean" and the last name "Heller" clearly distinguishable.

DEAN HELLER
U.S. Senator