

Congress of the United States
Washington, DC 20510

December 10, 2012

Via Electronic Transmission

Mr. Stephen J. Hemsley
President and Chief Executive Officer
UnitedHealth Group
9900 Bren Road East
Minnetonka, MN 55343

Dear Mr. Hemsley:

Since passage of the Patient Protection and Affordable Care Act (PPACA), the U.S. Department of Health and Human Services (HHS) has been tasked with the establishment and operation of federally controlled American Health Benefit Exchanges prior to 2014 for states that will not have any required Exchange in place by January 1, 2014. The database being created to operate the federal exchange will reportedly contain vast amounts of sensitive national socio-economic and health information. The existence of such a database poses significant questions, including concerns about consumer privacy, that extend beyond the role of your company. Our interest in this matter includes the overall functioning of the data service hub, which has potential implications for the entire health insurance sector.

In September 2011, Quality Software Services, Inc. (QSSI) was initially awarded a contract to construct and support the operations of a federal data service hub by the Centers for Medicare and Medicaid Services (CMS), which was ultimately finalized in January 2012. QSSI is now tasked with erecting the federal data services hub that will serve as the foundation for complex federal health insurance exchanges.

Our offices have learned that UnitedHealth Group, through its subsidiary, Optum, purchased QSSI in late September 2012. UnitedHealth Group now owns both Optum and QSSI; it also owns UnitedHealthcare, a major national provider of health care plans and competitor to other health plans expected to participate in a federal exchange.

News outlets have reported that QSSI will likely “[f]inalize technical and systems requirements to develop and deliver plan management services, *which includes the certifying and decertifying of health plans offered on the exchange,*” and “also entails monitoring agreements

with health plans to ensure compliance.”¹ This raises serious questions about the conflicts of interest that may exist as a result of the acquisition of QSSI by Optum. For example, this contract creates a situation whereby the exchange’s ultimate designer, QSSI, is in a position to tailor the system to favor the interests of its parent company, UnitedHealth Group, and further maintain a monopoly over information that is unavailable to competitors, potentially allowing such information to be exploited as invaluable market intelligence and used to gain an unfair advantage over competitors.

In order to better understand the relationship between QSSI, Optum, UnitedHealth Group, and UnitedHealthcare, the nature of QSSI’s contract with CMS, and the circumstances surrounding the purchase of QSSI, we would appreciate your response to the following questions by December 21, 2012:

- 1) What steps, if any, has UnitedHealth Group taken to identify and mitigate potential conflicts of interest related to UnitedHealth Group’s purchase of QSSI and its contract with CMS?
 - a. If any, please describe them in detail.
 - b. Please identify all individuals inside UnitedHealth Group and its subsidiaries who may have participated in these efforts.
 - c. If none, does UnitedHealth Group intend to take any steps to identify and mitigate any conflicts of interest?
 - d. If not, why not?
- 2) Do QSSI, Optum or UnitedHealth Group have any internal mechanisms in place to ensure independence from UnitedHealthcare?
- 3) Prior to, during, or after its acquisition of QSSI, have any UnitedHealth Group employees had any communication with individuals from CMS, HHS, or any other government entity regarding QSSI’s acquisition and any potential conflicts of interest?
 - a. If so, please describe them in detail and provide copies of such communications.
 - b. If not, why not?

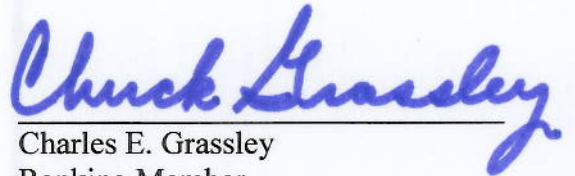
¹ Alexander Bolton, *Conflict-of-interest concerns raised as Obama races to implement health reform*, THE HILL (Nov. 3, 2012, 11:42 AM), <http://thehill.com/blogs/healthwatch/health-reform-implementation/265659-conflict-of-interests-concerns-raised-as-obama-races-to-implement-health-reform> (emphasis added).

Thank you for your prompt attention to this matter. If you have questions regarding this letter, please contact Erika Smith with the Senate Judiciary Committee at (202) 224-5225 or Sean Hayes with the House Energy and Commerce Committee at (202) 225-3641.

Sincerely,



Fred Upton
Chairman
Committee on Energy and Commerce



Charles E. Grassley
Ranking Member
Committee on the Judiciary

cc: The Honorable Henry A. Waxman, Ranking Member
Committee on Energy and Commerce

The Honorable Patrick J. Leahy, Chairman
Committee on the Judiciary