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November 19, 2013

The Honorable Kathleen Sebelius  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Secretary Sebelius:

I am writing you today to express concerns I have with the Navigator program that was established under the Affordable Care Act (ACA) and is administered by your department. These concerns stem from the fact that the Navigator program, if allowed, could present consumers with a situation under which they are victims of identity theft or fraud, or are advised to provide incomplete or false information when applying for health insurance.

First, I am concerned that there are no legal disqualifications for those seeking to be certified as Navigators. The state of Kansas has rightfully decided to conduct criminal background checks on those undergoing Navigator Program training, but it is my understanding that this was done at the state's discretion. The ACA states that "The Secretary shall establish standards for navigators."<sup>1</sup> Clearly, this language gave you the legal authority to create benchmarks for prospective Navigators. And although the law states that Navigators should not handle consumers' personal information, it would be possible for people with criminal backgrounds to take advantage of their position to the detriment of consumers. When you were implementing this section of the law, did you consider including any legal standards, such as disqualifying convicted felons? Would you consider implementing such a basic standard in the future?

Secondly, there have been media reports about certified Navigators advising applicants to lie about their income or health status in order to receive a greater Federal income subsidy or a lower premium on a health care plan. Not only does this show a complete disregard for the law, but it also shows a disturbing lack of ethical behavior. When an authority figure gives a consumer twisted advice on such a serious matter, it is the consumer who will pay the price. All certified Navigators should be aware that individuals may be penalized for lying about this information, and that the IRS has the ability to claw back subsidy overpayments at a later date. Did your department consider adding an ethical component to Navigator training and certification? Would you consider adding such a component to future training?

Finally, I ask that your Department disclose the names of all Navigators certified by your department.

Sincerely,



Lynn Jenkins, CPA  
Member of Congress

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<sup>1</sup> 42 USC § 18031.