



July 21, 2017



President Donald J. Trump  
1600 Pennsylvania Ave NW  
Washington, DC 20500



Dear Mr. President:

On behalf of millions of taxpayers who are members and supporters of our organizations, **we urge you to direct the Office of Personnel Management (OPM) to rescind the Obama-era rule (78 Fed. Reg. 60653-01) that allows Congress to masquerade as a small business in order to force taxpayers to pay for their health insurance.**



This ongoing fraud improperly allows Congress and its staff to avoid the pain the Patient Protection and Affordable Care Act (“Obamacare”) is inflicting on millions of other Americans.



When Congress was debating Obamacare, the American people demanded that Congress subject themselves and their staff to the new system they were imposing on their fellow Americans.



Those demands worked, and before Obamacare passed the Senate in 2009, Section 1312(d)(3)(D) was included. That section requires members of Congress and their staff to buy health insurance through an Obamacare exchange, and unlike an earlier proposed version does not authorize an employer contribution toward their premiums.



The provision was set to take effect in 2014, causing panic on Capitol Hill. Members of Congress and their staff were desperate to keep their taxpayer-funded, gold-plated health care rather than go into Obamacare and pay their own way, as the law required.



After a meeting with Senate Democrats in March 2013, then-president Barack Obama personally committed to illegally exempt Congress from this provision of Obamacare.<sup>1</sup> And he did.



Obama directed OPM to issue a rule purporting that Congress, which has thousands of employees, is a small business and therefore: “the DC Health Link Small Business Market administered by the DC Health Benefit Exchange Authority, is the appropriate SHOP from which Members of Congress and designated congressional staff will purchase health insurance in order to receive a Government contribution.”<sup>2</sup>



This fraud of instructing Congress to masquerade as a small business was the key to the scheme, because if members of Congress and their staff had signed up for Obamacare under the individual exchange – as any other American losing employer coverage has to – they would have had to pay their own premiums.



The House and Senate each filed a false declaration with the DC Health Benefit Exchange Authority claiming to have less than 50 employees – an indefensible fact that was never publicly disclosed.<sup>3</sup>





**Fortunately, you have the power to end the scheme by directing OPM to rescind the Obama rule and issue a new rule that conforms to the statutory requirement the Congress and their staff pay their own premiums in the individual Obamacare exchange.**

We urge you to do so expeditiously.

Sincerely,



Phil Kerpen  
President  
American Commitment

Thomas Schatz  
President  
Citizens Against Government Waste



Daniel Schneider  
Executive Director  
American Conservative Union

Matthew Kandrach  
President  
Consumer Action for a Strong Economy



Sean Noble  
President  
American Encore

Ed Martin  
President  
Phyllis Schlafly's Eagle Forum Education  
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Tim Wildmon  
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Christine Harbin  
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Americans for Prosperity

Ryan Ellis  
Senior Tax Advisor  
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American Womens Alliance, Inc.

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National Center for Public Policy Research



<sup>1</sup> John Bresnahan and Jake Sherman, "Obama on Hill's ACA mess: I'm on it," *Politico*, July 31, 2013.

<http://www.politico.com/story/2013/07/obama-hill-health-care-dispute-095017>

<sup>2</sup> Federal Employees Health Benefits Program: Members of Congress and Congressional Staff, 78 Fed. Reg. 60653-01 (Oct. 2, 2013). <https://www.gpo.gov/fdsys/pkg/FR-2013-10-02/pdf/2013-23565.pdf>

<sup>3</sup> Judicial Watch, "D.C. Government Concedes Law Does Not Allow for Congress to Obtain Obamacare in 'Small Business Exchange,'" Jan. 7, 2015. <http://www.judicialwatch.org/press-room/press-releases/d-c-government-concedes-law-not-allow-congress-obtain-obamacare-small-business-exchange/>