

ONE HUNDRED NINETEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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February 9, 2026

Mr. Mark Bertolini
Chief Executive Officer
Oscar Health, Inc.
c/o Todd Harrison
McDermott Will & Schulte
500 N Capitol Street N.W.
Washington, DC 20001

Dear Mr. Bertolini:

The Committee on the Judiciary is examining Obamacare subsidies fraud and the ability of current regulatory laws to address this fraud. Obamacare created government-run marketplaces and a subsidy system for individuals to purchase healthcare.¹ The subsidies, which are advanced premium tax credits (APTCs) paid directly from the federal government to insurance companies, cover an enrollee's premium above a percentage of their income.² This structure means that the government pays the health insurance companies more money each time the insurer increases premiums, but the consumer does not see this cost increase when choosing a plan.³ During the COVID-19 pandemic, the Biden-Harris Administration and the Democrat-led Congress temporarily expanded the amount of the Obamacare subsidies and then extended these enhanced subsidies in 2022.⁴ These enhanced subsidies have now expired and reverted back to the original Obamacare levels.⁵

On June 25, 2025, the Trump Administration issued the Marketplace Integrity and Affordability Rule (Rule), which would help limit Obamacare fraud, but a Biden-appointed judge issued a stay that blocked these fraud-protection measures.⁶ The court asserted that the Trump Administration had violated the Administrative Procedure Act (APA) when promulgating the Rule.⁷ That decision is currently on appeal.⁸ In light of this judge's interpretation of the APA

¹ COMMITTEE FOR A RESPONSIBLE BUDGET, *Understanding the ACA Subsidy Discussion* (Nov. 5, 2025).

² *Id.*

³ *Id.*

⁴ American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (2021); 2022 Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (IRA).

⁵ *Id.*

⁶ *City of Columbus v. Kennedy*, 1:25-cv-02114-BAH (D. Md. Aug. 22, 2025).

⁷ *Id.*

⁸ Notice of Appeal, *City of Columbus v. Kennedy*, 1:25-cv-02114-BAH (Aug. 29, 2025).

at a minimum delaying the Rule’s important fraud-protection measures, and considering the Government Accountability Office’s recent report that found billions of dollars in unreconciled Obamacare subsidies per year and examples of tens of thousands of Social Security Numbers subject to potential fraud,⁹ the Committee is investigating whether the APA needs to be reformed so as to ensure that important healthcare fraud prevention measures can be swiftly implemented and are not unreasonably burdened by administrative procedural requirements. .

In a letter dated December 15, 2025, the Committee wrote to Oscar Health requesting that it produce documents and communications to the Committee to examine whether legislative reforms are necessary.¹⁰ The deadline to respond to the letter was December 29, 2025.¹¹ On January 5, 2026, Oscar only partially responded to the Committee’s request, providing data in response to requests 1 and 3 from the Committee’s letter.¹² At the same time, Oscar wrote to the Committee that data in response to request 2 is “competitive information” and instead provided alternative publicly available information that does not respond to the Committee’s request.¹³ In addition, Oscar claimed that requests 5, 6, 7, 9, and 10 “would cause an undue burden” and did not provide any documents responsive to these requests.¹⁴ Oscar also claimed the its Board of Directors documents are “privileged and confidential.”¹⁵ On a call on January 21, 2026, Committee staff informed Oscar that its responses were insufficient and that it needed to comply with the Committee’s requests.¹⁶ Oscar has not yet indicated how or when it will comply with the Committee’s requests.

The Supreme Court has recognized that Congress has “broad and indispensable” power to conduct oversight, which “encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them.”¹⁷ Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning “[a]dministrative practice and procedure” to inform potential legislative reforms, such as, in this case, whether reforms are needed to the APA to allow for effective implementation of regulations that address Obamacare

⁹ GAO, Patient Protection and Affordable Care Act: Preliminary Results from Ongoing Review Suggest Fraud Risks in the Advance Premium Tax Credit Persist, GAO 108742 (Dec. 2, 2025).

¹⁰ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, Rep. Scott Fitzgerald, Chairman, H. Subcomm. on the Admin. State, Regul. Reform, and Antitrust, Rep. Jeff Van Drew, Chairman, H. Subcomm. on Oversight, to Mark Bertolini, CEO, Oscar Health, Inc. (Dec. 15, 2025) (on file with the Committee).

¹¹ *Id.*

¹² Letter from Todd Harrison, Partner, McDermott Will & Schulte on behalf of Mark Bertolini, CEO, Oscar Health, Inc. to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Jan. 5, 2026) (on file with the Committee).

¹³ *2019-2024 Enrollees Without Claims by State Market Metal Level*, Center for Medicare and Medicaid Services (August 8, 2025) <https://www.cms.gov/files/document/enrolleeswithoutclaims-2019-24.xlsx>; *Enrollment Dynamics and Health Care Utilization in the ACA Individual Market*, Center for Medicare and Medicaid Services (August 8, 2025).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Call with Oscar, Oscar’s outside counsel, and Committee staff (January 21, 2026).

¹⁷ See e.g., *Trump v. Mazars LLP*, 591 U.S. 848, 862 (2020).

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fraud.¹⁸ The documents requested by the Committee will inform the House's consideration of these potential legislative reforms.

Accordingly, the Committee is issuing compulsory process to obtain documents and material needed to fulfill its oversight and legislative obligations. Please find the enclosed subpoena compelling production of the requested documents by February 23, 2026.

The Committee appreciates your compliance with our subpoena.

Sincerely,



Jim Jordan
Chairman



Scott Fitzgerald
Chairman

Subcommittee on the Administrative
State, Regulatory Reform, and
Antitrust



Jeff Van Drew
Chairman
Subcommittee on Oversight

cc: The Honorable Jamie Raskin, Ranking Member

The Honorable Jerrold L. Nadler, Ranking Member, Subcommittee on the Administrative
State, Regulatory Reform, and Antitrust

The Honorable Jasmine Crockett, Ranking Member, Subcommittee on Oversight

Enclosure

¹⁸ See generally Rules of the House of Representatives, 119th Cong., R. X (2025); *City of Columbus v. Kennedy*, 1:25-cv-02114-BAH (D. Md. Aug. 22, 2025).