

# United States Senate

WASHINGTON, DC 20510

September 22, 2017

The Honorable Thomas E. Price  
Secretary  
Department of Health and Human Services  
200 Independence Avenue S.W.  
Washington, DC 20201

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Price and Administrator Verma:

Last month, the Centers for Medicare and Medicaid Services (CMS) announced plans to drastically cut funding for the Affordable Care Act (ACA) Navigator program and other public outreach activities in advance of the upcoming open enrollment period. We are concerned that cutting outreach programs reduces information available to consumers seeking insurance through the individual Marketplaces, which is particularly concerning since the upcoming Open Enrollment period, from November 1<sup>st</sup> to December 15<sup>th</sup>, is half the length it has been in recent years.

The Navigator program, which Exchanges are required to implement,<sup>1</sup> provides grants to local organizations across the country that help people in their communities choose the right health insurance for them and their families. Cutting funding to the Navigator program is the latest effort by the Trump Administration to undermine the health care system at the expense of families seeking affordable insurance. We have serious concerns about how this decision will reduce information available for those seeking or renewing insurance and therefore result in additional uncertainty, limit enrollment, destabilize the individual insurance market, and raise health care costs.

CMS documents indicate that CMS officials had initially recommended only a small reduction in funding for the Navigator program.<sup>2</sup> In a memo approved August 23, 2017, CMS officials wrote, “[t]his year, available funding for the Navigator program in the FFEs [Federally Facilitated Exchanges] was reduced by \$3 million, from \$63 million last year to \$60 million this year.”<sup>3</sup> The \$60 million was entered into CMS’s accounting system by the morning of August 31, 2017. Later that day, the Trump Administration announced plans to cut funding for the

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<sup>1</sup> The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 STAT 180 & 186; 45 C.F.R. (155.210 & 155.210).

<sup>2</sup> <http://acasignups.net/17/09/04/exclusive-i-believe-whats-called-scoop>

<sup>3</sup> Memo from Gian Johnson, Acting Director, Division of Assister Programs, Consumer Support Group, CCIIO, to Jennifer Beeson, Director, Consumer Support Group, CCIIO (Aug. 23, 2017).

Navigator program by 42 percent to \$36.8 million. The agency outlined a funding formula whereby navigators will receive funding based on their success in meeting last year's enrollment goals. It is unclear, based on information provided thus far, whether navigators will be judged solely on past in-person enrollment figures, which is only one way in which navigators assist consumers in becoming educated and enrolling in an insurance plan.

In addition to the announced cuts, the Trump Administration's delay in distributing grants has sown further confusion into outreach efforts. On September 8, 2017, *Vox* reported that funding for the Navigator program expired on September 1<sup>st</sup> and the Trump Administration had yet to award funding for the upcoming year.<sup>4</sup> Without guaranteed funding, navigators preparing for Open Enrollment to begin on November 1<sup>st</sup> had been forced to cancel outreach and other planning efforts. Navigators were not alerted to the amount of total grant money they would each receive until September 13, 2017.<sup>5</sup> The funding will reportedly not be retroactive, meaning navigators will not be reimbursed for planning activities undertaken before funding was awarded.

Also on August 31, 2017, CMS announced that it is cutting the budget for ACA advertising and outreach activities by 90 percent, from \$100 million to \$10 million.<sup>6</sup> The agency has offered no details about how and when it will spend this money.

Governors and state insurance commissioners have spoken about the need for investment in outreach and expressed concern that funding cuts will result in lower enrollment. In testimony before the HELP Committee, Montana Governor Steve Bullock stated, "Education must remain a priority, and recent actions to reduce funding that would drive individuals to sign up for insurance is penny wise and pound foolish. Reducing the education budget by 90% and payments to navigators by 40% is, like the continuing threats to withhold the CSR payments, and [*sic*] overt attempt to sabotage the ACA."<sup>7</sup> Lori Wing-Heier, the Director of Alaska's Division of Insurance, also called for continued funding for the navigator and assister programs, stating, "In rural areas of Alaska, insurance brokers are not always available. These programs reduce the number of uninsured citizens and maximize market participation."

We know that there is increasing evidence that consumer outreach and assistance is critical to a healthy marketplace. Advertising helps encourage younger and healthier enrollees to sign up for coverage, promoting a balanced risk pool and bringing down premiums for all enrollees. Cutting funding for consumer outreach by 90 percent could have a devastating effect on the risk pool. A recent study showed that, during the 2014 open enrollment period, counties exposed to more advertisements about open enrollment saw larger reductions in their uninsured rates.<sup>8</sup> By contrast, research shows that Kentucky's funding cuts for local consumer outreach in 2015 and

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<sup>4</sup> <https://www.vox.com/policy-and-politics/2017/9/8/16268572/trump-obamacare-navigators>

<sup>5</sup> <http://thehill.com/policy/healthcare/350632-obamacare-enrollment-groups-learn-extent-of-trump-cuts>

<sup>6</sup> <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Policies-Related-Navigator-Program-Enrollment-Education-8-31-2017pdf.pdf>

<sup>7</sup> <https://www.help.senate.gov/imo/media/doc/Bullock.pdf>

<sup>8</sup> <http://content.healthaffairs.org/content/early/2017/03/13/hlthaff.2016.1440>

2016 was associated with a decline in Kentuckians shopping for coverage.<sup>9</sup> These past examples heighten our concerns about the federal government's plan to spend less than ten percent on outreach in the 34 states than California is spending in its market alone and about half as much as President Trump had spent on private travel by April of this year.<sup>10</sup> Finally, a recent analysis published by Covered California estimated that the cuts proposed by CMS last month could result in approximately one million fewer consumers enrolled and a 2.5 percent increase in premiums.<sup>11</sup>

Despite concerns, shared by both Republican and Democratic officials, the Trump Administration has elected to introduce additional uncertainty into the health care marketplace. Since January, when the Trump Administration chose to cut advertisements in the final weeks of the last open enrollment period and removed key information from HHS websites, the Administration has been steadily working to leave consumers with fewer and fewer resources to educate themselves on their insurance options.<sup>12</sup> Furthermore, the repeated attempts to pass a harmful Trumpcare bill and President Trump's false claims that Obamacare will implode have left consumers confused. While uncertainty and confusion remain high, the Administration is electing to limit resources that would help consumers understand the marketplace and make decisions that are best for their families.

To help us better understand the Trump Administration's funding decisions and plans for outreach and navigator activities, please respond to the following questions no later than October 6, 2017:

1. Please provide a detailed timeline of when the funding decisions were made for the Navigator program.
  - a. Please explain how CMS arrived at the initial \$60 million figure for the Navigator program.
  - b. Please explain how and when CMS elected to reduce funding to \$36.8 million for the program.
2. The August 31 memo details how Navigator funding will be distributed: "For the upcoming enrollment period, Navigator grantees will receive funding based on their ability to meet their enrollment goals during the previous year. For example, a grantee that achieved 100 percent of its enrollment goal for plan year 2017 will receive the same level of funding as last year, while a grantee that enrolled only 70 percent of its enrollment goal would receive 70 percent of its previous year funding level, a reduction of 30 percent. The new funding formula will ensure accountability within the Navigator program."
  - a. The enrollment goals are set by the navigators themselves and were not intended to serve as performance measures upon which future funding decisions would be

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[https://static1.squarespace.com/static/57afb421beba9b2459f6e4dd/t/594c26b5f7e0abe955135ab9/1498162873237/kynect\\_arm17.pdf](https://static1.squarespace.com/static/57afb421beba9b2459f6e4dd/t/594c26b5f7e0abe955135ab9/1498162873237/kynect_arm17.pdf)

<sup>10</sup> [http://hbex.coveredca.com/data-research/library/CoveredCA\\_Marketing\\_Matters\\_9-17.pdf](http://hbex.coveredca.com/data-research/library/CoveredCA_Marketing_Matters_9-17.pdf)

<sup>11</sup> [http://hbex.coveredca.com/data-research/library/CoveredCA\\_Marketing\\_Matters\\_9-17.pdf](http://hbex.coveredca.com/data-research/library/CoveredCA_Marketing_Matters_9-17.pdf)

<sup>12</sup> <http://www.thedailybeast.com/team-trump-used-obamacare-money-to-run-ads-against-it>



- made. How is CMS ensuring that this metric is a fair and consistent way of assessing past performance?
- b. In addition to in-person enrollment, navigators help consumers who may later enroll on their own, assist consumers over the phone, attend community events, and answer questions after individuals have enrolled. How was past performance in these areas incorporated into funding decisions?
  - c. Several organizations that received significant cuts reported a history of meeting and even exceeding enrollment goals. Can you please explain this and provide a full description of how the new funding formula assessed enrollment goals in this most recent grant announcement?
  - d. How does CMS envision that the new funding formula will ensure accountability within the Navigator program?
  - e. Section 1311(i)(6) of the ACA requires that Navigator grants “shall be made from the operational funds of the Exchange and not Federal funds received by the State to establish the Exchange,” while Section 1311(d)(5)(A) Exchanges be “self-sustaining beginning on January 1, 2015, including allowing the Exchange to charge assessments or user fees to participating health insurance issuers, or to otherwise generate funding, to support its operations.” How are any user fees or assessments previously used for Navigator and other outreach activities now being used?
3. When were grantees notified of the amount of their awards for the Navigator program? Has that funding been distributed, and if not, when does CMS plan to distribute that funding? Will the funding apply retroactively to September 1?
4. According to an August 31 memo, “CMS plans to spend \$10 million on educational activities in order to meet the needs of new and returning enrollees. CMS will target its advertising and outreach activities to educate consumers on the new dates of the Open Enrollment Period through digital media, email, and text messages.”<sup>13</sup>
- a. Please explain how CMS arrived at this \$10 million figure. What analysis was conducted to determine this was an appropriate amount for outreach activities?
  - b. Please provide a detailed plan for how CMS plans to spend the \$10 million, including the timeline for spending, whether the funds will be targeted to certain geographic areas or demographic groups, and how the funds will be divided among different platforms (i.e. digital media, email, etc.).
  - c. Does the Administration have a strategy for using these reduced funds to inform consumers of major changes recently made in the market, including a shortened open enrollment period and changes to the availability of special enrollment periods?
5. Despite data showing that groups at higher risk of being uninsured are less likely to know about the ACA marketplaces<sup>14</sup>, in a call with reporters, an HHS official stated, “People

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<sup>13</sup> <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Policies-Related-Navigator-Program-Enrollment-Education-8-31-2017pdf.pdf>

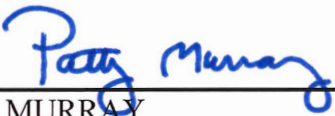
<sup>14</sup> <http://www.commonwealthfund.org/publications/issue-briefs/2016/aug/who-are-the-remaining-uninsured>


are aware of Obamacare and the exchanges, they are aware they can sign up.”<sup>15</sup> Another HHS official stated, however, “We haven’t done a specific study related to the public awareness of the program.”


- a. How did HHS reach the conclusion that consumers are educated about the law and their enrollment options, particularly for the upcoming open enrollment period?
  - b. Has HHS assessed how the Trump Administration’s sabotage efforts have affected public awareness of the health care marketplace and what options are currently available to consumers?
  - c. What evidence does HHS have that being “aware of Obamacare and the exchanges” leads to increases in enrollment?
6. Prior to the decision to cut funding, did HHS consult with state and local officials about the effectiveness of outreach efforts and the Navigator program in their states and localities? If so, what feedback did they provide, and how was that feedback incorporated into the Administration’s decision?


Thank you in advance for your prompt attention to this critical matter. If you have any questions, or would like to further discuss compliance with this request, please contact Colin Goldfinch (202-224-7675) or Elizabeth Letter (202-224-6403) with Senator Murray’s HELP Committee staff or Arielle Woronoff and Peter Gartrell (202-224-4515) with Senator Wyden’s Finance Committee staff.


Sincerely,


  
PATTY MURRAY  
United States Senator

  
RON WYDEN  
United States Senator

  
PATRICK LEAHY  
United States Senator

  
RICHARD J. DURBIN  
United States Senator

  
JACK REED  
United States Senator

  
THOMAS R. CARPER  
United States Senator

<sup>15</sup> <https://www.vox.com/2017/8/31/16236280/trump-obamacare-outreach-ads>



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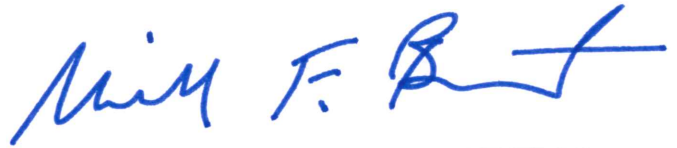
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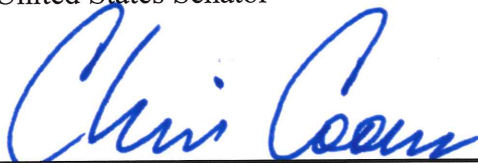
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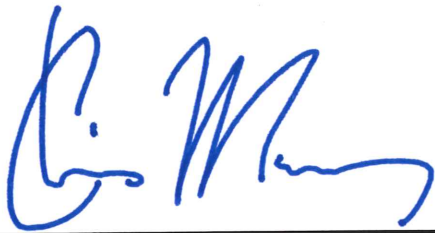


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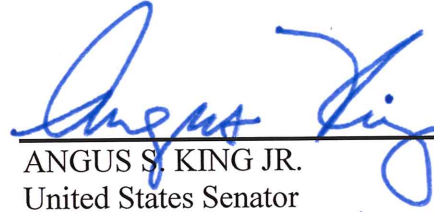
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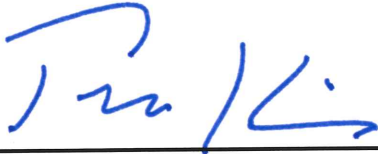
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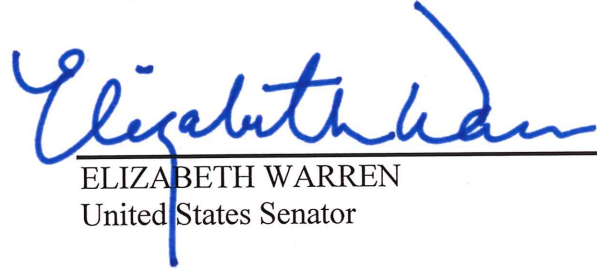
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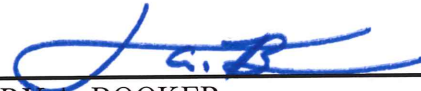
TIM KAINE  
United States Senator



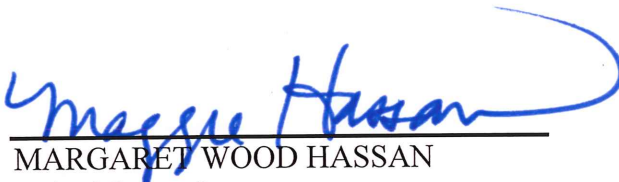
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