

United States Senate

WASHINGTON, DC 20510

April 27, 2017

The Honorable Thomas E. Price, M.D.
Secretary
U.S. Department of Health and Human Services
Washington, DC 20201

Dear Secretary Price:

We write to you regarding proposed changes to two important Federal surveys that would eliminate questions about lesbian, gay, bisexual, and transgender (LGBT) individuals. In particular, we are concerned that the elimination of these questions would make it more difficult to assess whether key programs for older Americans and people with disabilities are meeting the needs of the LGBT community.

On March 13, 2017, the U.S. Department of Health and Human Services (HHS) released a draft of this year's National Survey of Older Americans Act Participants. This survey is designed to gather data about people who receive services funded under the Older Americans Act, such as home-delivered and congregate meals, transportation, home care services, and caregiver support. The results of the survey are used to evaluate the effectiveness of the Older Americans Act programs funded through HHS, including who is able to access the programs.

Notably, the draft of this year's survey removed one demographic question asking whether a respondent is gay, lesbian, bisexual, or heterosexual. This question first appeared on the survey in 2014 and was included in subsequent years. We are troubled that HHS, in its Federal Register notice, stated that it had made "no changes" to the survey. That is the not the case.

HHS has proposed similar revisions for its Centers for Independent Living Annual Program Performance Report survey. This annual report evaluates the effectiveness of programs designed to serve people with disabilities, such as skills training, counseling, and other services. While an initial draft of this survey, released earlier this year, included a question on sexual orientation, the current draft survey removes the sexual orientation question, as well as an option to identify as transgender in answering a question on gender. These appear to be the only notable edits made to the survey.

Older LGBT individuals, as well as LGBT persons with disabilities, face many challenges including financial insecurity, social isolation, discrimination, and barriers to access for aging and accessibility services. We are concerned that removing sexual orientation and gender identity questions from these surveys will limit HHS's ability to address these issues. Sexual orientation and gender identity questions on these surveys were designed to ensure that vital services were reaching vulnerable LGBT Americans. By rolling back data collection, it is possible that the needs of millions of Americans will go unmet.

In order to ensure that key programs for older Americans and people with disabilities are meeting the needs of the LGBT community, we urge you to restore sexual orientation and gender identity questions on the National Survey of Older Americans Act Participants as well as the Centers for Independent Living Annual Program Performance Report survey. We also request a staff briefing on the decision to omit sexual orientation and gender identity questions from these surveys no later than May 5, 2017. Your prompt response is necessary to ensure that these questions are restored in time to be included in the annual surveys.

Thank you for your assistance in this matter.

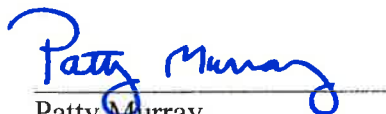
Sincerely,



Susan M. Collins
United States Senator



Robert P. Casey, Jr.
United States Senator



Patty Murray
United States Senator



Tammy Baldwin
United States Senator



Bernard Sanders
United States Senator



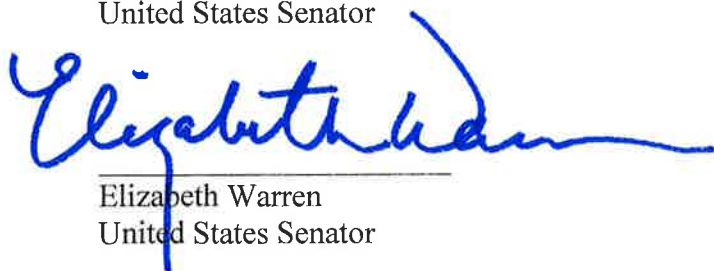
Edward J. Markey
United States Senator



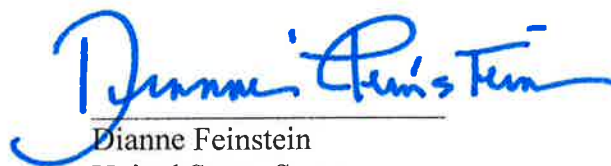
Sheldon Whitehouse
United States Senator



Kirsten Gillibrand
United States Senator



Elizabeth Warren
United States Senator



Dianne Feinstein
United States Senator



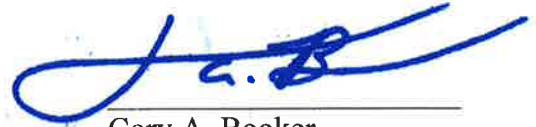
Jeffrey A. Merkley
United States Senator



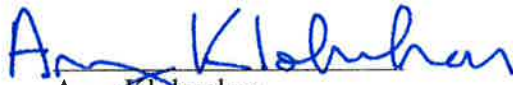
Sherrod Brown
United States Senator



Al Franken
United States Senator



Cory A. Booker
United States Senator



Amy Klobuchar
United States Senator



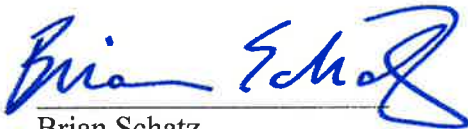
Richard Blumenthal
United States Senator



Catherine Cortez Masto
United States Senator



Mazie K. Hirono
United States Senator



Brian Schatz
United States Senator

United States Senate

WASHINGTON, DC 20510

November 7, 2017

The Honorable Eric D. Hargan
Acting Secretary
U.S. Department of Health and Human Services
Washington, DC 20201

Dear Acting Secretary Hargan:

During the campaign, President Trump said that he would “do everything in [his] power to protect LGBTQ citizens.”¹ We write to you because the Administration is not living up to the President’s promise and continues to take actions to reduce data collection about the well-being of, and rollback protections for, lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals. We urge you to reverse course on actions that will make it more challenging for programs you oversee to serve LGBTQ Americans.

In April, many of us wrote to then-Secretary Price regarding the U.S. Department of Health and Human Services’ (HHS) decision to eliminate sexual orientation and gender identity questions on two data collection instruments used to evaluate the effectiveness of Older Americans Act programs and programs designed to serve people with disabilities. We were pleased that HHS heeded our request to restore the sexual orientation question to the National Survey of Older Americans Act Participants (NSOAAP).² However, we remain concerned that HHS has not yet restored the gender identity question to the survey. Further, HHS staff recently indicated that it would not be collecting data on sexual orientation and gender identity on this year’s Centers for Independent Living Annual Program Performance Report (CIL PPR). In order to ensure that key programs for older adults and people with disabilities are meeting the needs of the entire LGBTQ community, we once again reiterate our call for HHS to restore the gender identity question to the NSOAAP and to collect information on sexual orientation and gender identity on the CIL PPR.

Rather than heed the strong opposition from the LGBTQ community, the public, and elected officials, we are deeply disappointed the Administration has taken additional actions that will likely have adverse consequences for LGBTQ Americans. In October, HHS withdrew a proposed rule that would have ensured that same-sex spouses were recognized and afforded equal rights in long-term care facilities that receive Medicare and Medicaid funds.³

¹ Donald Trump Address at the Republican National Convention (July 21, 2016) (available at <https://www.c-span.org/video/?c4612805/donald-trump-addresses-republican-national-convention>).

² See Federal Register Notice (June 22, 2017) (available at <https://www.federalregister.gov/documents/2017/06/22/2017-13030/agency-information-collection-activities-submission-for-omb-review-comment-revision-of-a>).

³ See Federal Register Notice (October 4, 2017) (available at <https://www.federalregister.gov/documents/2017/10/04/2017-21419/medicare-and-medicaid-programs-revisions-to-certain-patients-rights-conditions-for-participation-and>).

Furthermore, starting this year, two federal grant programs designed to serve homeless youth and children who are the victims of commercial sexual exploitation and sex trafficking will no longer specifically focus on the needs of LGBTQ youth. As LGBTQ youth are at a higher risk for running away and becoming homeless compared to their peers, and therefore more likely to be victimized, we are concerned about the effect these Administration decisions would have on these vulnerable youth.

HHS's Street Outreach Program, administered by HHS's Administration for Children and Families, supports organizations around the country that work with homeless, runaway, and street youth to help them find stable housing and services. The program's ultimate goal is to prevent the sexual abuse or exploitation of young people living on the streets or in unstable housing and prepare them for independence. While previous funding announcements specifically stated that grantees were required to address the unique needs of LGBTQ youth,⁴ this year's announcement removed that requirement as well as all mentions of LGBTQ youth.⁵ Furthermore, in previous years, applicants were also required to submit an "LGBTQ Accessibility Policy" assurance, which stated that the needs of LGBTQ individuals would be taken into consideration and that the applicant would establish policies prohibiting harassment.⁶ According to this year's funding announcement, applicants are no longer required to submit this assurance.

HHS's decision to eliminate LGBTQ youth as a focus of the program runs counter to its own findings and recommendations and could have serious repercussions on the lives of at-risk LGBTQ youth. According to a study released by HHS last year, while 3 to 5 percent of youth in this country self-identify as LGBT, one-third of youth served by the Street Outreach Program reported being lesbian, gay, or bisexual.⁷ The number of youth in the program who identified as transgender was three times that of a recent national estimate of transgender homeless youth.⁸ Alarmingly, HHS's own study also found that LGBT youth served by the program "were significantly more likely to have experienced victimization on the streets (including being beaten up, robbed, sexually assaulted or raped, threatened with a weapon, or assaulted with a weapon) than their heterosexual counterparts."⁹ HHS found that LGBT youth supported by the program

⁴ See Street Outreach Program Funding Opportunity Announcement (HHS-2016-ACF-ACYF-YO-1124) (available at https://ami.grantsolutions.gov/files/HHS-2016-ACF-ACYF-YO-1124_0.pdf).

⁵ See Street Outreach Program Funding Opportunity Announcement (HHS-2017-ACF-ACYF-YO-1241) (available at https://ami.grantsolutions.gov/files/HHS-2017-ACF-ACYF-YO-1241_0.pdf).

⁶ *Ibid.*

⁷ Data Collection Study Final Report, Administration for Children and Families, Family and Youth Services Bureau, Street Outreach Program (April 2016) (available at https://www.acf.hhs.gov/sites/default/files/fysb/data_collection_study_final_report_street_outreach_program.pdf).

⁸ *Ibid.*

⁹ *Ibid.*

faced barriers accessing services, including the lack of LGBT-friendly policies and staff.¹⁰ Because of these barriers, HHS concluded that programs and services funded by the Street Outreach Program would need to be especially sensitive to LGBT youth and that additional information about the particular needs of LGBT youth, as well as more effort, was needed to better serve these individuals.¹¹ HHS's decision to remove requirements to address the unique needs of LGBTQ youth leave the Department in contradiction of its own recommendations.

While HHS was making the decision to eliminate LGBTQ youth as a focus of the Street Outreach Program, the U.S. Department of Justice (DOJ) made a similar decision when it decided to eliminate LGBTQ youth as a focus of its Mentoring for Child Victims of Commercial Sexual Exploitation and Domestic Sex Trafficking Initiative. This program, which supports the capacity of organizations to respond to the needs of child victims of commercial sex exploitation and domestic sex trafficking, removed a requirement this year that grantees were required to focus on the needs of LGBTQ youth¹² as well as all mentions of LGBTQ youth in its Funding Opportunity Announcement.¹³ Taken together, these decisions by HHS and DOJ further imperil an already vulnerable population.

In order to ensure that key programs meet the needs of the LGBTQ population, we urge you to continue to emphasize that LGBTQ youth are a primary focus of the Street Outreach Program and restore the gender identity question to the NSOAAP and to collect data on sexual orientation and gender identity on the CIL PPR. We also request a staff briefing on the decision to eliminate mention of LGBTQ youth in this year's Street Outreach Program funding announcement and how HHS plans to ensure that the needs of LGBTQ youth are being met through this program.

Thank you for your assistance in this matter.

Sincerely,



Robert P. Casey, Jr.
United States Senator



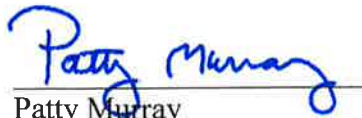
Tammy Baldwin
United States Senator

¹⁰ *Ibid.*

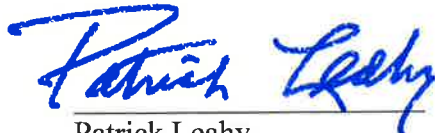
¹¹ *Ibid.*


¹² OJJDP FY 2016 Mentoring for Child Victims of Commercial Sexual Exploitation and Domestic Sex Trafficking Initiative Funding Opportunity Announcement (OJJDP-2016-9143) (available at <https://www.ojjdp.gov/grants/solicitations/FY2016/MentoringCSEDST.pdf>).

¹³ OJJDP FY 2017 Mentoring for Child Victims of Commercial Sexual Exploitation and Domestic Sex Trafficking Initiative Funding Opportunity Announcement (OJJDP-2017-10985) (available at <https://www.ojjdp.gov/grants/solicitations/FY2017/CVCSEDSMent.pdf>).


Patty Murray
United States Senator



Richard J. Durbin
United States Senator



Patrick Leahy
United States Senator


Jack Reed
United States Senator

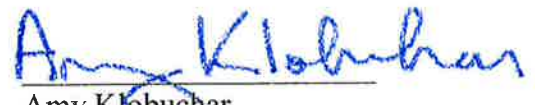

Sheldon Whitehouse
United States Senator

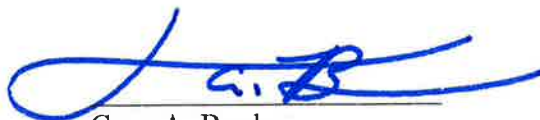

Kirsten Gillibrand
United States Senator

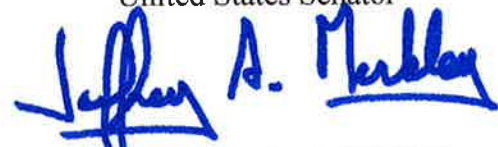

Edward J. Markey
United States Senator

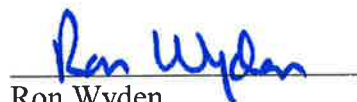

Al Franken
United States Senator

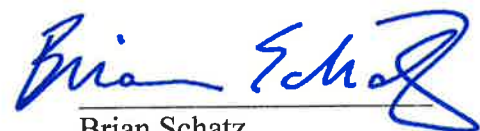

Richard Blumenthal
United States Senator

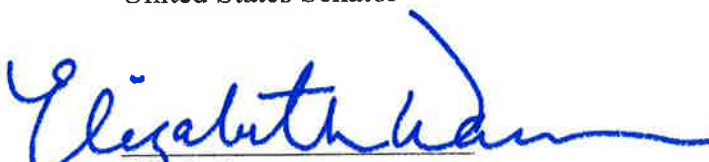

Amy Klobuchar
United States Senator



Cory A. Booker
United States Senator


Jeffrey A. Merkley
United States Senator


Ron Wyden
United States Senator


Brian Schatz
United States Senator


Elizabeth Warren
United States Senator


Bernard Sanders
United States Senator



Jeanne Shaheen
United States Senator



Heidi Heitkamp
United States Senator



Mazie K. Hirono
United States Senator

United States Senate

WASHINGTON, DC 20510

April 3, 2018

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
Washington, DC 20201

Dear Secretary Azar:

We write to you to express our continued concern that key federal programs are not meeting the needs of lesbian, gay, bisexual, and transgender (LGBT) Americans. Despite repeated promises by President Trump during the 2016 campaign that he would do everything in his power to protect LGBT citizens, the Administration continues to take actions that will have adverse consequences for LGBT individuals.¹ We once again call on the Department of Health and Human Services (HHS) to ensure key data is collected so that LGBT Americans of all ages are able to access the federal programs best suited to address their unique needs and concerns.

Last year, many of us wrote to HHS regarding the Department's decision to eliminate sexual orientation and gender identity questions on a data collection instrument used to evaluate the effectiveness of Older Americans Act (OAA) programs. We were pleased that HHS heeded our request to restore the sexual orientation question to the National Survey of Older Americans Act Participants (NSOAAP), but continue to urge you to restore questions pertaining to gender identity. The NSOAAP provides critical data on federally-funded programs under the OAA, such as home-delivered and congregate meals, transportation, home care services, and caregiver support. The results of the survey are used to evaluate the effectiveness of OAA programs, including who is able to access the programs. By collecting data on participants' gender identity, HHS is better able to fulfill its statutory obligation to ensure OAA funds are targeted to older adults with the "greatest social need," including transgender Americans.²

The Administration's actions against LGBT individuals extend beyond older transgender Americans. We recently learned that HHS plans to delay the collection of critical foster care and adoption data needed to update the Adoption and Foster Care Analysis and Reporting System (AFCARS), as required by a 2016 rule.³ The rule specifically required collecting data on a child's sexual orientation for the first time. This much-needed data is

¹ Donald Trump Address at the Republican National Convention (July 21, 2016) (available at <https://www.c-span.org/video/?c4612805/donald-trump-addresses-republican-national-convention>).


² Older Americans Act of 1965, as Amended through P.L. 114-144, 42 U.S.C. § 3001 (available at <https://legcounsel.house.gov/Comps/Older%20Americans%20Act%20Of%201965.pdf>)

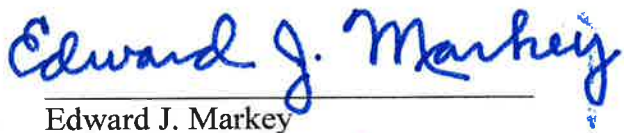
³ 45 C.F.R. § 1355 2016 (available at <https://www.gpo.gov/fdsys/pkg/FR-2016-12-14/pdf/2016-29366.pdf>)

integral to providing competent and supportive care to LGBT youth in the foster care system. LGBT youth are particularly vulnerable, facing higher rates of mistreatment and homelessness.⁴ Robust data collection is needed to ensure they are placed in homes and with families who will be able to meet their unique needs. Delaying this critical data collection by two years is yet another attempt by HHS to disenfranchise the LGBT community.

Time and time again, this Administration has demonstrated a willingness to turn its back on LGBT individuals—both youth and older Americans. Choosing not to collect essential data on the unique needs of these communities is tantamount to a choice not to serve them. By collecting data on sexual orientation and gender identity, the Administration can assess whether critical federal programs and services are able to reach the members of the LGBT community who most need them. Reducing data collection on LGBT individuals, and making decisions to no longer specifically focus on their needs, is threatening to erase the enormous gains that have been made in recent years. We refuse to allow the Administration to walk away from the LGBT population. We once again call on HHS to reverse course and ensure federal programs are meeting the needs of all LGBT Americans.

Thank you for your assistance in this matter.


Robert P. Casey, Jr.

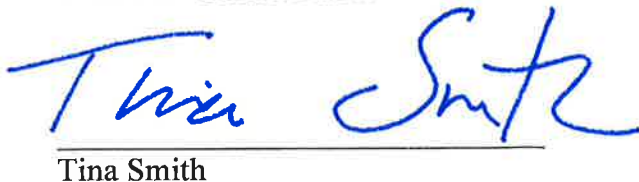

Edward J. Markey


Sheldon Whitehouse


Sherrod Brown


Catherine Cortez Masto


Elizabeth Warren

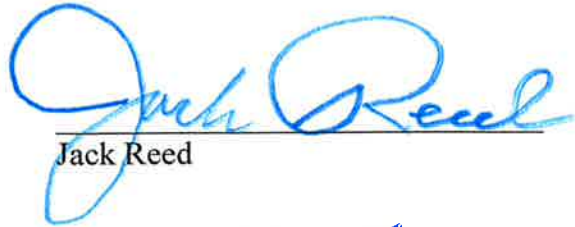

Tina Smith


Kirsten Gillibrand

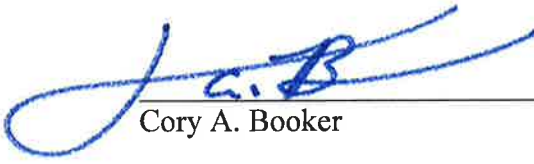
⁴ Human Rights Campaign, "LGBTQ Youth in the Foster Care System," (available at https://assets2.hrc.org/files/assets/resources/HRC-YouthFosterCare-IssueBrief-FINAL.pdf?_ga=2.258766345.2079073263.1521577560-518381437.1516815376)



Richard Blumenthal



Jack Reed



Cory A. Booker



Mazie K. Hirono



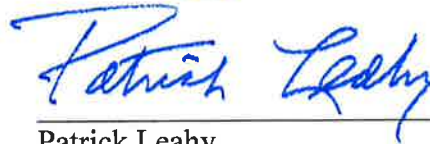
Tammy Duckworth



Amy Klobuchar



Bernard Sanders



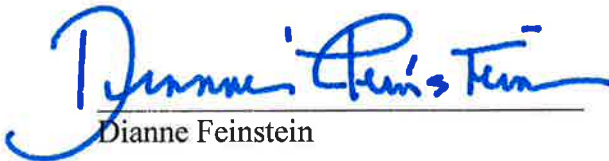
Patrick Leahy



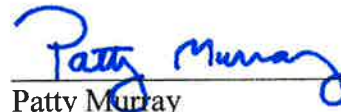
Jeffrey A. Merkley



Kamala D. Harris



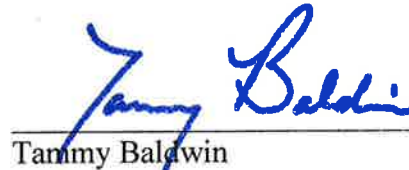
Dianne Feinstein



Patty Murray



Jeanne Shaheen



Tammy Baldwin