

**Congress of the United States**  
Washington, DC 20510

August 28, 2018

Julie Mix McPeak  
President  
National Association of Insurance Commissioners  
444 North Capitol Street NW, Suite 700  
Washington, DC 20001

Dear Commissioner McPeak,

The Trump Administration's final rule expanding the availability of short-term, limited-duration insurance (STLDI) plans undermines federal consumer protections, allowing insurers to once again discriminate against people with pre-existing conditions, seniors, and women. Expanding the use of these "junk plans" will harm both the people who purchase them, only to discover the care they need is not covered as they had been led to believe, and those in the individual market who will see higher premiums as a result.

Recently, the Trump Administration promulgated a final rule to expand the sale of short-term, limited-duration insurance (CMS-9924-P). STLDI is intended to be just that—short term and for a limited duration. The Trump Administration's own rule defines short-term, limited-duration insurance as "a type of health insurance coverage that was designed to fill temporary gaps in coverage that may occur when an individual is transitioning from one plan or coverage to another plan or coverage."<sup>1</sup> Currently these plans are limited to three months. However, the Administration's rule allows these plans to be sold for 364 days and renewed for up to 36 months.

STLDI allows insurers to discriminate against the more than 133 million people across the country with pre-existing conditions by denying them coverage altogether, excluding coverage for a pre-existing condition, or charging them extremely high premiums based on health status, age, and gender. These plans can charge older consumers far more than their younger counterparts for the same policy. They do not have to cover the ten essential health benefits outlined in federal law, and often exclude important benefits such as maternity care, mental health, substance use disorder treatment, and prescription drugs. STLDI plans are not subject to the same rules that require 80 percent or more of premium dollars to be spent on actual health care (the medical loss ratio), and a recent National Association of Insurance Commissioners

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<sup>1</sup> Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Short-Term, Limited-Duration Insurance*, 83 FR 38212 (August 2018), <https://www.federalregister.gov/documents/2018/08/03/2018-16568/short-term-limited-duration-insurance>.

(NAIC) report shows that some STLDI issuers use as little as 34 percent of premium dollars on health care.<sup>2</sup> These plans can implement high deductibles and arbitrary limits on how much necessary care they will cover. In short, many of these plans are not worth the paper they are printed on.

We are very concerned about the impact of these junk plans on our constituents and the commercial insurance market as a whole. The final rule will take effect on October 2, 2018, and we understand that Insurance Commissioners are beginning to receive plans for approval. We therefore ask that you survey Insurance Commissioners and keep us apprised as these applications are being approved by reporting the following information back to us quarterly during the 2019 plan year regarding plan approvals by state:

1. How many short-term, limited-duration plans did Commissioners approve in each state? How many issuers sold these plans?
2. How many and what percentage of plans approved cover maternity care?
3. How many and what percentage of plans approved cover prescription drugs?
4. How many and what percentage of plans approved cover mental health and substance use disorders services? Do they clearly meet mental health parity and addiction equity requirements?
5. How many and what percentage of plans approved deny coverage entirely if the applicant has a pre-existing condition?
6. How many and what percentage of plans approved exclude or limit coverage for pre-existing conditions?
7. How many and what percentage of plans approved have annual, quarterly, lifetime or time-based limits on coverage?
8. How many and what percentage of plans approved implement an age tax (charge more for older applicants)?
9. How many and what percentage of plans approved make the plan renewable at the outset?

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<sup>2</sup> National Association of Insurance Commissioners. (2018). *2017 Accident and Health Policy Experience Report*. [https://www.naic.org/prod\\_serv/AHP-LR-18.pdf](https://www.naic.org/prod_serv/AHP-LR-18.pdf).

10. How many and what percentage of plans approved place restrictions or limitations on renewability based on the applicant's age or pre-existing condition?
11. What are the deductibles for individuals and families in each plan?
12. What are the benefit maxima in each plan?
13. What medical loss ratio does each plan report?
14. How many plans that cover up to 364 days are sold in the state?

In addition we request that you share these plans' applications and marketing materials, especially those that insurance commissioners have found to be misleading to consumers.

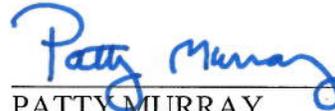
If you have any questions please contact Arielle Woronoff with Senator Wyden's Finance Committee staff at (202) 224-4515, Colin Goldfinch with Senator Murray's HELP Committee staff at (202) 224-5375, Corey Malmgren with Senator Nelson's staff at (202) 224-5274, or Kathleen Laird with Senator Baldwin's staff at (202) 224-5653.

Sincerely,



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RON WYDEN  
Ranking Member  
Senate Committee on Finance



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PATTY MURRAY  
Ranking Member  
Senate Committee on Health, Education,  
Labor, and Pensions



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BILL NELSON  
United States Senator



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TAMMY BALDWIN  
United States Senator