United States Senate

WASHINGTON, DC 20510

December 12, 2017

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

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

Dear Acting Secretary Hargan and Administrator Verma,

We write to urge the Department of Health and Human Services (HHS) to extend Open Enrollment to the Health Insurance Marketplaces to January 31, 2018 to ensure that all potential consumers have a full and adequate opportunity to shop for and enroll in health insurance that meets their families' needs. The Administration's decision to depart from years of agency policy by ending Open Enrollment on December 15th is compounded by the many other efforts by this Administration to destabilize the insurance market, making it likely that many consumers miss this deadline and forgo insurance next year—all despite clear indications that consumers are highly interested in seeking coverage for 2018. This shortened Open Enrollment period also leaves consumers currently enrolled in coverage without an opportunity to switch plans after being automatically enrolled, even though these plans may no longer be the best choice for their families. Given the Administration's decisions to dramatically roll back outreach efforts, cut Navigator funding, and halt cost-sharing reduction (CSR) payments, which had far-reaching implications on the cost of coverage, providing interested consumers with enough time to learn about and find coverage in the Marketplaces is more critical than ever.

The Marketplaces help consumers compare and obtain comprehensive and affordable private insurance subject to robust consumer protections. The Marketplaces also allow consumers to determine their eligibility for financial assistance programs, which today help over 80 percent of those enrolled afford premiums and out-of-pocket costs.[i] During Open Enrollment for the 2017 plan year, approximately 12.2 million consumers selected or automatically re-enrolled in health insurance, 10 million of whom received financial assistance and three million of whom were new to the Marketplaces.[ii]

The Marketplaces also provide critical tools for those previously enrolled to shop around and ensure their insurance plans continue to meet their needs. During previous Open Enrollment periods, consumers who were automatically re-enrolled on December 16th had an additional six weeks to change plans if the plan in which they were automatically enrolled no longer provided the greatest benefit to their families. This year, steps taken by the Administration have changed the coverage landscape dramatically, making it more likely that consumers are automatically re-enrolled in plans that differ from their previous year's coverage. Moreover, the Administration's decision to stop paying CSRs induced market distortions that may make choosing the right plan even harder for working families, since gold coverage is now cheaper than silver coverage in many parts of the country. Consumers deserve at least the same amount of time as in previous years to make this significant choice about their families' health coverage.

Adding insult to injury, the Administration decided to slash funding for consumer outreach and assistance, even though these efforts are critical to helping families understand their changing coverage options. For 2018 Open Enrollment, HHS announced it would radically cut outreach funding by 90 percent and roll back over 40 percent of funds for the Navigator program.[iii] Since the beginning of the Open Enrollment period, HHS has done virtually nothing to promote enrollment and notify consumers about this severe cut to Open Enrollment's timeline or the vast differences from the previous year's plan offerings.

Despite the Administration's efforts, consumers have made clear their demand for affordable, comprehensive coverage. On a week-by-week basis, sign-ups for coverage through HealthCare.gov are up over 22 percent from where they were at this point last year.[iv] As a percentage of the total open enrollment period remaining, however, millions fewer consumers have signed up for plans. By cutting Open Enrollment to just six weeks, HHS has left consumers with less time to shop for coverage, sign up for plans, and obtain needed financial assistance, all of which may result in substantially fewer people with coverage. Enrollment has continued through January for four years, so many consumers may miss the upcoming December deadline—especially given HHS's failure to engage in consumer outreach and education. In fact, estimates suggest that ending Open Enrollment this week will cause over one million fewer individuals to find coverage for next year.[v]

Prematurely closing enrollment may be particularly devastating for consumers with pre-existing conditions who rely on insurance to afford the services they need. This truncated enrollment window could force those with pre-existing conditions to decide between forgoing treatment and taking on crippling medical debt. Further, by shortening the window and potentially failing to capture younger and healthier consumers who in past years enrolled at the end of Open Enrollment, those who obtain or renew coverage by December 15th may face higher costs as a result of an older and sicker population in the Marketplaces.[vi] Thus, ending Open Enrollment this week threatens to limit enrollment and drive up the cost of coverage.

Ensuring consumers have the opportunity to find the coverage they need is essential to protecting the health and financial security of families across the country. We urge you to immediately extend Open Enrollment and to engage in concerted outreach and assistance efforts that help potential consumers obtain coverage. To do otherwise poses further risks to the continued stability of the individual marketplace and puts the goal of affordable, comprehensive insurance for all further out of reach.

Sincerely,

Ron Wyden
Ranking Member
U.S. Senate Committee on Finance

Patty Murray
Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions

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[i] Kaiser Family Foundation, Marketplace Enrollment and Financial Assistance (Feb. 2017), https://www.kff.org/health-reform/state-indicator/total-marketplace-enrollment-and-financial-assistance.

[ii] CMS, Health Insurance Marketplaces 2017 Open Enrollment Period Final Enrollment Report: November 1, 2016 – January 31, 2017 (Mar. 3, 2015), https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-03-15.html.

[iii] Patient Protection and Affordable Care Act; Market Stabilization, 82 Fed. Reg. 18346 (Apr. 18, 2017), https://www.gpo.gov/fdsys/pkg/FR-2017-04-18/pdf/2017-07712.pdf; Randy Pate, Director, Center for Consumer Information & Insurance Oversight, Policies Related to the Navigator Program and Enrollment Education for the Upcoming Enrollment Period (Aug. 31, 2017), https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Policies-Related-Navigator-Program-Enrollment-Education-8-31-2017pdf.pdf.

[iv] Sarah Kliff, Obamacare sign-ups defy Trump's sabotage campaign, Vox (Dec. 7, 2017), https://www.vox.com/policy-and-politics/2017/12/7/16738058/obamacare-sign-ups-trump-sabotage.

[v] Joshua Peck, Trump's ad cuts will cost a minimum of 1.1 million Obamacare enrollment (Oct. 23, 2017), https://medium.com/get-america-covered/trumps-ad-cuts-will-cost-a-minimum-of-1-1-million-obamacare-enrollments-9334f35c1626.

[vi] CMS, Strengthening the Marketplace by Covering Young Adults (Jun. 21, 2016), https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2016-Fact-sheets-items/2016-06-21.html; Paul Shafer and Stacie Dusetzina, Looking Ahead To 2018: Will A Shorter Open Enrollment Period Reduce Adverse Selection In Exchange Plans? *Health Affairs* (Apr. 14, 2017), https://www.healthaffairs.org/do/10.1377/hblog20170414.059663/full/#oneref*.