

# United States Senate

WASHINGTON, DC 20510

August 1, 2019

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20220

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20201

Dear Secretary Azar and Secretary Mnuchin:

We are writing with profound concern about the consequences of the Administration's position that seeks to overturn protections for people with pre-existing conditions, coverage for millions of Americans, and numerous other policies that help keep health care costs down for seniors, low-income families, and millions of others in *State of Texas, et al v. USA, et al* (No. 19-10011). Upending the current health care system will create an enormous hole in the pocketbooks of the people we serve as well as wreck state budgets; therefore, we ask for data to help states and Congress better understand the potential consequences of the position the Administration is taking in court.

More than 11.4 million people signed up for coverage either through Healthcare.gov or a state-run exchange during the 2019 open enrollment period.<sup>[1]</sup> In addition, following the expansion of Medicaid in 32 states, over 12 million consumers gained comprehensive health benefits in fiscal year 2017.<sup>[2]</sup> By the Department's estimates, 133 million people, or 51 percent of Americans, have a pre-existing condition and could face discrimination in health insurance coverage if protections like guaranteed issue, the prohibition on coverage exclusions, and adjusted community rating are eliminated.<sup>[3]</sup> The Administration's position that the entire Affordable Care Act ("ACA") should be struck down could result in millions of seniors once again being exposed to the Medicare "donut hole," eliminate the Food and Drug Administration's legal authority to approve cheaper biosimilar drugs, repeal funding that supports public health and prevention, and wipe out the legal authorization for the Indian Health Service. This position is inconsistent with Congressional intent.

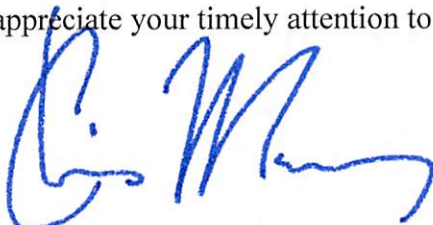
Given the far-reaching consequences if the Administration were to prevail in the lawsuit, we are seeking detailed information to assess the impacts at the federal, state, and local level. We are requesting a report that specifies, by state, the number of individuals currently receiving:

1. Protections from discrimination for those with pre-existing conditions, including such protections known as "adjusted community rating" and "guaranteed issue" and the prohibition on "pre-existing condition exclusions."

2. Health insurance coverage that includes prohibitions on lifetime and annual limits on the dollar value of benefits.
3. Coverage that caps annual out-of-pocket costs in individual and small group markets.
4. Coverage that includes premium protections related to age and gender.
5. Enhanced prescription drug coverage under a Medicare Part D plan, including the average benefit per beneficiary in each state.
6. Coverage in the individual market established by the ACA.
7. Financial assistance to purchase coverage in the health insurance marketplace established by the ACA, including the average amount of assistance per beneficiary in each state.
8. Coverage for essential health benefits, including mental health benefits, free annual wellness visits, emergency services, prescription drugs, maternity care, and pediatric services.
9. Coverage for recommended preventive services.
10. Dependent coverage for an adult child until the child turns 26 years of age.
11. Coverage under the new adult group eligibility category through Medicaid created by the ACA, including the amount of Medicaid funds for the category by state.
12. Coverage through Medicaid as young adults (up to age 26) aging out of foster care, including the amount of Medicaid funds for the category by state.
13. Gold standard early and periodic screening, diagnostic, and treatment protections for children who gained access to Medicaid under the ACA's eligibility improvements.
14. Access to home and community-based services for seniors and individuals with disabilities under the Community First Choice option, including the amount of Medicaid funds for the category by state.

We appreciate your timely attention to this matter.

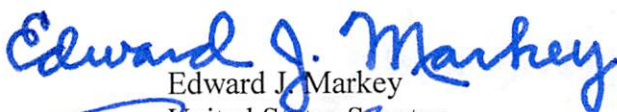
Sincerely,



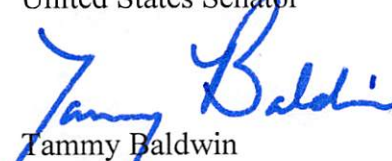
Christopher S. Murphy  
United States Senator



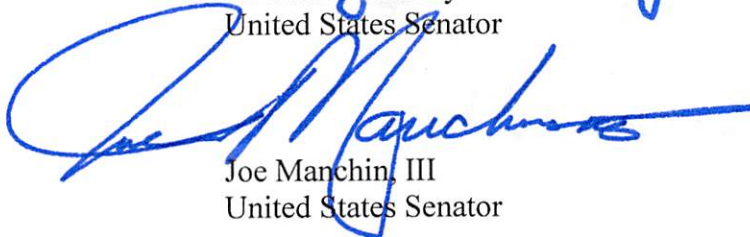
Robert P. Casey, Jr.  
United States Senator



Edward J. Markey  
United States Senator




Tammy Baldwin  
United States Senator

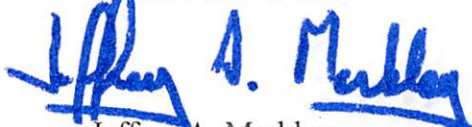


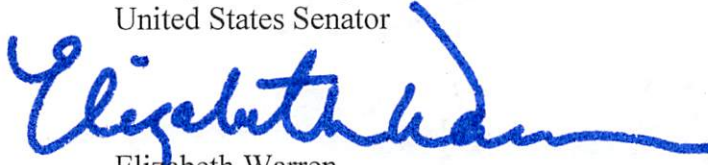
Joe Manchin, III  
United States Senator





Richard Blumenthal  
United States Senator

  
Benjamin L. Cardin  
United States Senator


  
Jeffrey A. Merkley  
United States Senator

  
Elizabeth Warren  
United States Senator

  
Amy Klobuchar  
United States Senator

  
Chris Van Hollen  
United States Senator


  
Debbie Stabenow  
United States Senator

  
Jon Tester  
United States Senator

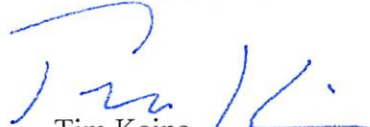
  
Tammy Duckworth  
United States Senator

  
Sherrod Brown  
United States Senator

  
Jeanne Shaheen  
United States Senator

  
Jacky Rosen  
United States Senator

  
Gary C. Peters  
United States Senator

  
Tim Kaine  
United States Senator

<sup>[1]</sup> Centers for Medicare and Medicaid Services. "Health Insurance Exchanges 2019 Open Enrollment Report." <https://www.cms.gov/newsroom/fact-sheets/health-insurance-exchanges-2019-open-enrollment-report> (03/25/19)

<sup>[2]</sup> 32 states (including the District of Columbia). Kaiser Family Foundation. "Medicaid Expansion Enrollment FY 2017." <https://www.kff.org/health-reform/state-indicator/medicaid-expansion-enrollment/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

<sup>[3]</sup> Office of the Assistant Secretary for Planning and Evaluation. "Health Insurance Coverage For Americans With Pre Existing Conditions The Impact Of The Affordable Care Act." <https://aspe.hhs.gov/system/files/pdf/255396/Pre-ExistingConditions.pdf>. (01/05/17)