

United States Senate

May 4, 2020

The Honorable William P. Barr
Attorney General of the United States
Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530

Dear Attorney General Barr:

In the unprecedented situation that the nation is currently facing, I write today to request that the Department of Justice (DOJ) halt its pursuit of any and all efforts to repeal or undermine the health care coverage and protections provided by the Affordable Care Act (ACA). As Americans grapple with this public health crisis and its devastating impacts, I am deeply troubled DOJ lawyers continue their work on litigation aimed at scrapping the ACA. This must stop. The whole-of-government approach that the Administration is touting in combatting this global pandemic cannot stop at the footsteps of your Department.

The expansion of health care coverage in the ACA helped 20 million Americans get health insurance and prohibited discrimination against more than 130 million citizens nationwide, including more than 152,000 Montanans, with pre-existing conditions. For 2020 alone, more than 43,000 Montanans purchased insurance through the ACA marketplaces, and nearly 75 percent of those folks live in zip codes designated as rural. More than that, in 2019, an estimated 87 percent of enrollees (around 35,000 Montanans) who purchased marketplace plans received financial assistance through tax credits to do so. In my home state, the nature of many of our frontier communities mean that Montanans in rural areas are disproportionately lower-income, older, sicker, and face greater challenges accessing care. The ACA meant that insurance status was not yet another hurdle facing Montanans' access to medical help.

The decision to expand Medicaid in Montana that the ACA afforded to states also had significant consequences, both for patients and providers. Through Montana's Medicaid expansion, nearly 90,000 Montanans gained coverage. Medicaid expansion was particularly impactful across Indian Country and other rural parts of Montana. These areas typically face disproportionate challenges in accessing affordable health care service and Medicaid expansion served to begin to fill these gaps.

In addition to providing greater access to health services for thousands of Montanans, Medicaid expansion has provided a lifeline to rural hospitals. A recent study by the Chartis Center for Rural Health said that one in four rural hospitals is at risk of closure. This same study showed that hospitals located in Medicaid expansion states are about 60 percent less likely to close compared to similarly situated hospitals in non-expansion states. While hospitals treat patients regardless of insurance status, the amount of uncompensated care decreases dramatically in states that expanded Medicaid, providing a lifeline to the vulnerable rural hospitals that anchor our frontier communities. I have said it before, and I will say it again: if a hospital closes in one of these remote towns, that town will no longer be viable. Though far from a silver bullet, coverage expansion has provided a boost to many of our rural communities.

In spite of the ongoing pandemic that has claimed 16 lives in Montana and tens of thousands more nationwide, the DOJ continues to play politics with Americans' health care. In ongoing litigation in *Texas v. United States*, DOJ attorneys argue that the entire ACA must be struck down, despite the successes that I outlined here. The Supreme Court has agreed to review the case. Should the health care law be struck down, our nation's already complex health care system would be imperiled in the midst of a global health crisis. This would have disastrous outcomes for our entire country.

As Americans face unparalleled disruptions in their daily lives, I urge you to reverse course so that the hundreds of thousands of Americans who are grappling with the COVID-19 pandemic do not have to also face the threat that a court ruling could tear away their health coverage. Montana families deserve to know that in the face of a global health crisis, their government will not rip away their health coverage and further hinder their ability to access care when they may need it more than ever.

Sincerely,

A handwritten signature in blue ink that reads "Jon Tester". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jon Tester