

Congress of the United States
Washington, DC 20515

June 4, 2019

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Dear Administrator Verma:

We write to request detailed information associated with the Trump Administration's ongoing efforts to expand direct enrollment through the Federal Marketplace. The Administration's recent actions to expand the enhanced direct enrollment process may result in consumer confusion and lead many to be worse off or pay more for their coverage unnecessarily.

A March 2019 report by the Center on Budget and Policy Priorities highlighted several ways in which the direct enrollment process exposes consumers to financial harm.¹ The concerns raised with the existing direct enrollment process, among others, include: 1) steering consumers towards short term limited-duration insurance plans or other options that do not provide comprehensive coverage or guarantee the same consumer protections available through Marketplace plans – such as a ban on preexisting condition discrimination and the essential health benefits; 2) creating further barriers for people or families eligible for Medicaid or the Children's Health Insurance Program; and 3) hampering the ability for consumers to fully compare Marketplace plans and thus stifling competition on price and quality among private insurance plans.

These issues are especially troubling given the recent efforts by the Centers for Medicare and Medicaid Services ("CMS") to double down on direct enrollment through support for a new "enhanced" direct enrollment process.² This pathway lets consumers enroll in Marketplace coverage entirely through the private website of a third party, such as an insurer or web-broker, rather than through the Marketplace.

In April 2019, CMS issued a final regulation³ that modifies the requirements applicable to direct enrollment entities. The agency explained its commitment to "working to expand

¹ Center on Budget and Policy Priorities, "Direct Enrollment" in Marketplace Coverage Lacks Protections for Consumers, Exposes Them to Harm (Mar. 15, 2019), <https://www.cbpp.org/sites/default/files/atoms/files/3-15-19health.pdf>.

² See CMS, Enhanced Direct Enrollment Pathway for Health Insurance Exchange Coverage (Nov. 28, 2018), <https://www.cms.gov/newsroom/fact-sheets/enhanced-direct-enrollment-pathway-health-insurance-exchange-coverage>.

³ Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2020, 84 Fed. Reg. 17454 (Apr. 25, 2019).

opportunities for individuals to directly enroll in [Marketplace] coverage through the Websites of certain third parties, called direct enrollment entities, rather than having to visit HealthCare.gov.”⁴ This comes on the heels of massive cuts made by the Trump Administration to impartial community-based Navigator groups and recent website changes to HealthCare.gov steering consumers towards for-profit private companies.

While the private sector can play a critical role in helping to maximize enrollment in health coverage, the Trump Administration should ensure that changes to the Federal Marketplace enrollment process do not erode core consumer protections enshrined in the Affordable Care Act (“ACA”). Unfortunately, time and time again, this Administration has made it more difficult for millions of consumers to access high-quality, affordable health insurance. The Trump Administration is now even urging a federal court to strike down the entirety of the ACA, which would take health care away from millions of Americans. The agency’s actions to date provide no indication that CMS plans to conduct appropriate oversight over the direct enrollment process to assure compliance by insurance companies and web-brokers.

Therefore, we request that you produce the following information and documents by June 18, 2019:

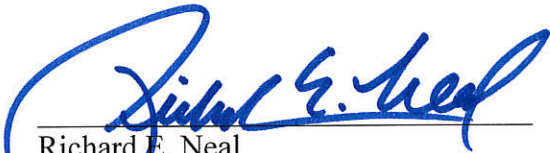
- 1) Please provide a full list of CMS-approved direct enrollment or enhanced direct enrollment entities as well as any and all documents including operations manuals, agreements, contracts, and terms or conditions with such entities;
- 2) Please provide any notices of intent received in connection with participation in the enhanced direct enrollment process for the 2019 and 2020 plan years;
- 3) Please describe how CMS ensures compliance by insurance companies or web-brokers with consumer protections designed to ensure consumers are fully informed about their comprehensive health coverage options, and other regulatory requirements under direct enrollment or enhanced direct enrollment;
- 4) Please provide all documents and communications relating to consumer complaints stemming from the direct enrollment or enhanced direct enrollment process to date;
- 5) Has CMS taken any enforcement action against an insurance company or web-broker in connection with the direct enrollment or enhanced direct enrollment process? If so, please describe the circumstances and provide any and all documents associated with the enforcement action(s); and
- 6) Please provide all documents and communications since February 1, 2017, between CMS employees or contractors and web-brokers related to expanding direct enrollment opportunities or web-brokers performing additional Marketplace functions (excluding public regulatory comments).

⁴ *Id.* at 17455.

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Thank you in advance for your immediate attention to this matter.

Sincerely,

A handwritten signature in blue ink, reading "Richard E. Neal", written over a horizontal line.

Richard E. Neal
Chairman
House Committee on Ways and Means

A handwritten signature in blue ink, reading "Frank Pallone, Jr.", written over a horizontal line.

Frank Pallone, Jr.
Chairman
House Committee on Energy and Commerce