

United States Senate

WASHINGTON, DC 20510

September 27, 2017

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

Dear Administrator Verma:

We write today to express our growing concern regarding the Centers for Medicare and Medicaid Services' (CMS) administration of the health insurance marketplaces – platforms that connect people to quality, affordable health insurance. We fear the Trump Administration's actions will make it more difficult for consumers to enroll in coverage on *HealthCare.gov* during the upcoming open enrollment period (OEP) – beginning November 1st and ending December 15th, which is half the length of last year's sign-up window.

Since their launch in 2013, the health insurance marketplaces, including the federal platform, *HealthCare.gov*, and 12 state-run marketplaces, have enabled millions of individuals and families to enroll in health coverage that meets their needs. In fact, 12.2 million consumers enrolled in a health insurance plan on the marketplaces during last year's OEP.¹ However, as you know, a consumer's ability to enroll in coverage is largely dependent upon a well-functioning marketplace and an administration that is committed to ensuring that there are few, if any, barriers to enrollment.

Over the last several months, CMS has announced decisions that patients, consumer advocates, insurance commissioners, governors, and other stakeholders agree will make it more difficult for people to enroll in coverage during this year's OEP. For instance, on August 31, 2017, CMS announced a 90 percent decrease in funding for consumer outreach and a 40 percent decrease in funding for the Affordable Care Act's Navigator program, which has assisted countless Americans in signing up for health insurance. We have each expressed our opposition to the agency's decision to decrease funding for these programs.

While these funding cuts alone will make it more difficult for consumers to sign up for coverage for plan year 2018, we are disappointed to learn that CMS has created a new barrier to enrollment. According to a presentation prepared for marketplace assisters, *HealthCare.gov* will experience outages during peak enrollment times, including on the first day of the OEP. The first day of the OEP is one of the most important, as hundreds of thousands of people log onto the system to explore their coverage options. For example, a report by the Office of the Inspector General for the U.S. Department of Health and Human Services found that on the first day of the second OEP, there were 650,000 unique visitors to *HealthCare.gov*, an estimated

¹ Centers for Medicare & Medicaid Services, "Health Insurance Marketplaces 2017 Open Enrollment Period Final Enrollment Report: November 1, 2016 – January 31, 2017" (March 15, 2017) (online at <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-03-15.html>)

34,000 accounts created, and 60,000 applications submitted.² The agency also announced plans for 12-hour outages on nearly every Sunday of the OEP. For many consumers, the weekend is the only time they have to enroll in coverage, which makes these planned outages especially troubling.

This planned downtime will be particularly harmful as this year's OEP is only 45 days – significantly shorter than previous OEPs, which were at least 90 days. Furthermore, the planned downtime is peculiar given that *HealthCare.gov* had successfully met its goal of having a system uptime of 99 percent or greater in previous OEPs.³ With this planned downtime, *HealthCare.gov* will have a system uptime of 93 percent.

In addition, due to CMS's recent actions regarding this year's OEP, we are becoming increasingly concerned about the agency's administration of other programs essential to marketplace consumers, including the Marketplace Call Center. The Marketplace Call Center is a toll-free hotline that is available 24 hours a day, seven days a week, with the exception of certain holidays. Call center staff can answer enrollment questions, help with troubleshooting, and connect consumers to translation services. Millions of consumers seek assistance from the call center each OEP. Last year, in the week leading up to the enrollment deadline for coverage that began on January 1, 2017, the Marketplace Call Center received more than 2.9 million calls.⁴ Throughout last year's OEP, the Marketplace Call Center received a total of 12.6 million calls.⁵ An appropriately staffed and well-run call center is essential to ensuring that consumers are able to enroll in coverage.

To aid in our understanding of the agency's decisions and plans regarding the *HealthCare.gov* downtime and the Marketplace Call Center, please respond to the following series of questions no later than October 15, 2017:

1. In order to better understand the decision that CMS made regarding multiple website outages during the OEP:
 - a. What information or data led the agency to determine that planned downtime is necessary for this year's OEP?
 - b. Why has the agency planned this downtime during peak enrollment times?
 - c. Does the agency anticipate that additional planned downtime will be necessary? Is the agency conducting system tests or other activities to identify any issues that may lead to additional downtime or delays in enrollment processing?
 - d. Please detail any alternative website maintenance plans that were considered by CMS staff prior to the announcement of the planned outages.
 - e. What, if any, consultation did CMS undertake with stakeholders, including states whose residents use *HealthCare.gov*, insurance companies, and partner agencies?

² Office of Inspector General, U.S. Department of Health & Human Services, "HealthCare.gov: CMS Management of the Federal Marketplace" (February 2016) (online at <https://oig.hhs.gov/oei/reports/oei-06-14-00350.pdf>)

³ The U.S. Digital Service, "2016 Report to Congress: Stabilizing and Improving HealthCare.gov" (December 2016) (online at <https://www.usds.gov/report-to-congress/2016/healthcare-dot-gov/>)

⁴ Centers for Medicare & Medicaid Services, "Special Edition Open Enrollment Snapshot: November 1 through December Deadline for January 1 Coverage" (December 21, 2016) (online at <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2016-Fact-sheets-items/2016-12-21.html>)


⁵ Centers for Medicare & Medicaid Services, "Biweekly Enrollment Snapshot" (February 3, 2017) (online at <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-02-03.html>)

2. We are concerned that consumers will be confused by these website outages, and we seek information about how CMS intends to ensure consumers are given clear information about any additional difficulties they may encounter as a result:
 - a. How will the agency ensure that consumers are aware of the planned downtime, including consumers who do not speak English?
 - b. For consumers who attempt to enroll during the planned downtime, what will the agency do to bring them back to the marketplace and help them enroll?
3. It is imperative that the Marketplace Call Center is fully functioning during this year's OEP. As such, please answer the following questions:
 - a. How many call center staff will be available to help consumers during this year's OEP?
 - b. Does the agency plan to alter the number of call center staff available to help consumers during this year's OEP? If so, by how much?
 - c. Will translation services be available?
 - d. Does the agency anticipate that wait times for the call center will be longer this year?

Furthermore, we urge CMS to extend this year's OEP to January 31, 2018, which is consistent with last year's deadline. Given the many changes and resulting confusion regarding this year's OEP, extending the deadline would help ensure that all those who wish to enroll in a plan on *HealthCare.gov* will be able to do so. Several state-run marketplaces have already extended their OEPs, including California and New York, which have extended their deadlines to January 31, 2018. Extending the deadline on *HealthCare.gov* will ensure that consumers in states that utilize the federal platform will also have more time to navigate the marketplace and enroll in a plan that best suits their needs.

Thank you for your prompt attention to this matter. We look forward to your response, and remain hopeful that CMS will act on behalf of the best interest of millions of marketplace consumers nationwide.


Sincerely,



CORY A. BOOKER
United States Senator



BRIAN SCHATZ
United States Senator



CHRIS MURPHY
United States Senator



ELIZABETH WARREN
United States Senator