

United States Senate
WASHINGTON, DC 20510

December 14, 2017

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

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

To Acting Secretary Hargan and Administrator Verma:

We write to ensure that individuals who are having difficulty enrolling in a health insurance plan through the Affordable Care Act (ACA) health insurance marketplace, HealthCare.gov, are able to complete their application before the open enrollment period concludes on December 15, or are given additional time to enroll past the deadline.

When consumers attempt to create an account on HealthCare.gov, they must verify their identity through Experian, which has a contract with the Department of Health and Human Services (HHS) for this purpose. We were troubled by recent news reports that consumers who have frozen their credit reports are unable to complete the identity verification part of the enrollment process in a timely manner.¹ We request you extend the open enrollment deadline or offer an accommodation to those individuals who have run into an issue with identity verification.

In September, Equifax publicly disclosed that it suffered a massive data breach that compromised the personal information of over 145 million Americans. The repercussions of that breach will be felt for years as the hackers sell or use that information to commit identity theft and fraud. As a result of this breach, consumers have taken steps to protect their identity and their credit worthiness, including freezing their credit reports. Now, their efforts to protect themselves from identity theft may stand in the way of accessing health insurance.

We are troubled that HHS failed to work with Experian during pre-enrollment planning or during the time the website has been shut down for maintenance during the course of open enrollment to

¹ Julie Appleby, "Consumers Who Froze Their Credit Reports Could Hit A Glitch Enrolling In Insurance," Kaiser Health News, December 13, 2017, available at: <https://khn.org/news/consumers-who-froze-their-credit-reports-could-hit-a-glitch-enrolling-in-insurance/> (last accessed December 14, 2017); Amy Goldstein and Hamza Shaban, "Enrollment in ACA health plans up from same time last year, but sign-up chance dwindling," Washington Post, December 13, 2017, available at https://www.washingtonpost.com/national/health-science/enrollment-in-aca-health-plans-ahead-of-same-time-last-year-but-sign-up-chance-dwindling/2017/12/13/2a11d0f0-df5d-11e7-bbd0-9dfb2e37492a_story.html?utm_term=.cbf2f1856548 (last accessed December 14, 2017).

address problems with identity verification for consumers with credit freezes in place. HHS's decision to cut this year's open enrollment period in half has made these challenges worse. Because the number of credit freezes has increased in the wake of the Equifax data breach, this oversight may prevent consumers from enrolling in health plans through HealthCare.gov before the open enrollment period ends.

The Department has a legal obligation to implement the ACA, which includes ensuring that consumers have an opportunity to enroll in a health plan through HealthCare.gov. Therefore, we urge you to take the following actions to address this issue:

- 1) Extend the open enrollment period for all consumers until January 31, 2018, which would be consistent with the duration of the open enrollment period since the inception of HealthCare.gov. This would be helpful to people who did not continue their application due to the identity verification issue;
- 2) Extend a grace period to those consumers that were affected by the online identity verification issues and/or permit them to enroll during a special enrollment period (SEP); and
- 3) Ensure that HHS identifies affected consumers through targeted outreach and assists them with enrolling in an ACA health plan of their choice.

We ask that you respond to this letter as soon as possible regarding your actions on the above requests. Thank you for your prompt attention to this matter.

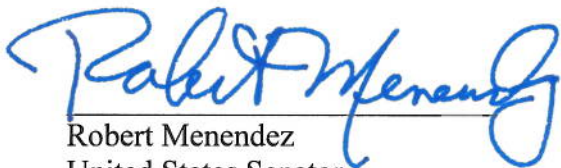
Sincerely,



Brian Schatz
United States Senator



Sherrod Brown
United States Senator



Robert Menendez
United States Senator



Richard Blumenthal
United States Senator



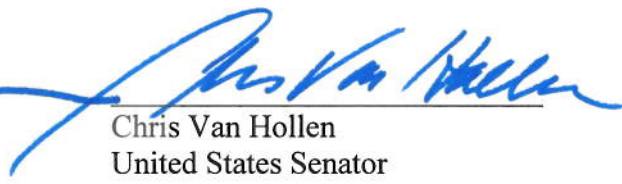
Catherine Cortez Masto
United States Senator



Cory A. Booker
United States Senator



Elizabeth Warren
United States Senator



Chris Van Hollen
United States Senator