

Congress of the United States
Washington, DC 20515

February 8, 2017

Mr. Norris Cochran
Acting Secretary
Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Mr. Adam Szubin
Acting Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Mr. Edward Hugler
Acting Secretary
Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

Dear Acting Secretaries,

We are writing to request additional information regarding the agencies' implementation of the Executive Order, "Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal." As Republicans in Congress simultaneously pursue repeal of the law without an immediate replacement, we are concerned the recent Executive Order could sabotage the law's coverage gains and destabilize insurance markets in the interim. The rules for health plans for 2018 already are set, and issuers are preparing their initial rate filings and making critical decisions about whether to participate in the Marketplace. Changes to those rules could result in issuers pulling out of the Marketplace, leaving Americans with no choices nine months from now when the next open enrollment begins.

Therefore, we ask that you provide us with the following information about how your agency is implementing the Executive Order. We respectfully request:

- 1) The General Counsel's analysis of the legality of any agency action to waive, defer, grant exemption from, or delay the implementation of each provision or requirement subject to the Executive Order.
- 2) A list of the statutory provisions or requirements that your agency has identified as being subject to this Executive Order and whether each such provision will be subject to waiver, deferral, exemption, or delay. For the provisions or requirements so identified:
 - a) Indicate which would require a revision of regulations issued through notice-and-comment rulemaking in order to be modified;
 - b) Indicate which do not require public notice to be modified; and
 - c) For both (a) and (b) provide your General Counsel's analysis about how any proposed action complies with Administrative Procedures Act requirements and other related statutory requirements.

- 3) The analysis (along with supporting data and documentation) by the Office of the Actuary (OACT) at the Centers for Medicare & Medicaid Services (CMS), the Office of Tax Analysis at the Department of Treasury, or the Office of Policy and Research at the Employee Benefits Security Administration (as appropriate) of the impact of the waiver, deferral, exemption, or delay of each provision or requirement identified in response to question (1), including:
 - a) An analysis of the number of individuals that would either lose coverage or experience reductions in benefits as a result of the proposed change, including those with employer-sponsored coverage, where nearly 160 million Americans now get health insurance;
 - b) The cost of the proposed change to the federal treasury over one, five, and ten years, as well as the expected cost in any of the subsequent four decades; and
 - c) The impact of the proposed change on annual out-of-pocket health care costs for individuals at or below 100% of the federal poverty level (FPL), 200% of the FPL, 300% of the FPL, 400% of the FPL, and those with family incomes above 400% of the FPL.
- 4) For each provision or requirement identified in response to question (1) relating to fees, taxes, or penalties, the Office of Tax Analysis or OACT estimates of:
 - a) Characteristics (such as firm type, size, or marginal tax brackets) of business entities projected to reap the greatest financial gain from such waiver, deferral, exemption, or delay;
 - b) The median income of individuals expected to reap the greatest financial gain from such waiver, deferral, exemption, or delay; and
 - c) Whether any such changes will affect employer-sponsored coverage and whether such changes would cause people to lose job-based coverage.
- 5) For any waiver, deferral, exemption, or delay granted with respect to this Executive Order:
 - a) The number of insurance companies offering health coverage in a county as of January 1, 2017 in the individual and small group markets compared to the number of insurance companies offering coverage in that same county upon effect of the modification; and
 - b) How it comports with the Executive Order's objective of achieving and preserving maximum options for patients and consumers through the "development of a free and open market in interstate commerce for the offering of health care service and health insurance."

We appreciate your prompt attention to this matter and ask that you respond to us no later than February 28th, 2017. Please provide updates on the status of your response.

If you have any questions about this request, please contact Amy Hall at (202) 225-4021 of the Committee on Ways and Means staff, Una Lee at (202) 225-3641 of the Committee on Energy and Commerce staff, Carrie Hughes at (202) 225-3725 of the Committee on Education and the Workforce staff, or Erika Appel at (202) 226-7200 of the Committee on Budget staff.

Sincerely,



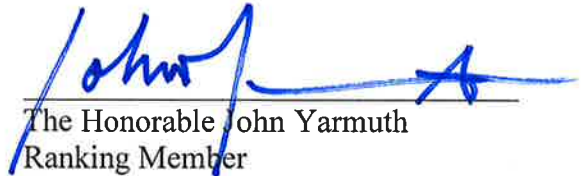
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means



The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce



The Honorable Robert C. "Bobby" Scott
Ranking Member
Committee on Education and the Workforce



The Honorable John Yarmuth
Ranking Member
Committee on Budget