

United States Senate

WASHINGTON, DC 20510

March 4, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar,

We write to express our serious concern that this Administration's health care sabotage and absence of a plan to lower drug prices undermine our ability to respond to the 2019 Novel Coronavirus (COVID-19) and future infectious disease outbreaks within the United States. In a February 25th briefing, the Centers for Disease Control and Prevention (CDC) indicated that a domestic COVID-19 outbreak is inevitable, warning "it's not a question of if, but rather a question of when and how many people in this country will have severe illness."¹ It is clear that all available measures should be employed to address this urgent public health threat.

When a patient who has potentially been exposed to the virus develops symptoms consistent with COVID-19, they should be able to seek appropriate medical care without being worried they cannot afford it. Patients often forego recommended tests and treatments because of cost.² For this reason, we are deeply concerned both by your refusal to commit that a potential vaccine for coronavirus will be affordable to anyone who needs it,³ and by this Administration's numerous policies that make it harder for patients to get care during an outbreak.

In testimony before the House Energy and Commerce Committee last week, when asked whether your Department would ensure that a vaccine will be affordable for anyone who needs it, you replied that you would "work to make it affordable," but stopped short of committing that patients and families would be able to afford a vaccine. One consumer advocacy group estimates that the National Institutes of Health (NIH) have already invested \$700 million in coronavirus research, while this Administration is refusing to place guardrails around the cost of a potentially critical vaccine in the middle of a global outbreak.⁴ We call on you to commit -- as

¹<https://www.cnn.com/2020/02/25/health/coronavirus-us-american-cases/index.html>

²<https://www.norc.org/PDFs/WHI%20Healthcare%20Costs%20Coverage%20and%20Policy/WHI%20Healthcare%20Costs%20Coverage%20and%20Policy%20Issue%20Brief.pdf>

³ <https://www.forbes.com/sites/isabeltogoh/2020/02/27/health-secretary-alex-azar-refuses-to-guarantee-coronavirus-vaccine-would-be-affordable-for-all/#c24a475490c3>

⁴ <https://www.statnews.com/pharmalot/2020/02/20/trump-coronavirus-drug-prices/>

Administration policy -- that anyone who needs it will be able to afford a vaccine for coronavirus.

This Administration's health care sabotage also undermines readiness for a COVID-19 outbreak in the United States by endangering patient access to care. The Administration has promoted junk insurance plans that can discriminate against people with pre-existing conditions and that do not comply with consumer protections like the essential health benefits and out-of-pocket limitations, distorted 1332 waivers to permit states to undermine the market for comprehensive coverage, and proposed damaging changes to Medicaid – which is critical to helping states react to public health emergencies – like block grants and work requirements.

Just this week, a patient in Miami, Florida presented at a hospital with flu-like symptoms after returning from a work trip to China.⁵ He realized his symptoms might not be a simple common cold and felt compelled to get tested for coronavirus. Fortunately, tests confirmed he had seasonal influenza and not COVID-19. Unfortunately, two weeks later, he received a bill with charges totaling \$3,270 and a note that his short-term limited duration insurance (STLDI) or “junk” plan would not pay the costs without further documentation. More bills may follow, and the insurer that sold his “junk” plan is requiring the patient to provide three years of medical records to prove that his flu is not related to a pre-existing condition. Even if the insurance covers the encounter – which it's not clear they will – the patient would still be on the hook to pay \$1,400 out-of-pocket for the brief diagnostic encounter.

This patient's experience is a foreboding tale about the public health catastrophe that will ensue if patients avoid seeking a diagnosis because the Trump Administration is once again allowing insurers to stick patients with huge bills for necessary care. As the patient put it, “How can they expect normal citizens to contribute to eliminating the potential risk of person-to-person spread if hospitals are waiting to charge us \$3,270 for a simple blood test and a nasal swab?”

Insurers who sell junk plans are allowed to discriminate against people with pre-existing conditions by denying them coverage, excluding critical benefits and charging higher premiums. Additionally, the Trump Administration does not require junk plans to comply with consumer protections that limit out-of-pocket costs or require coverage of essential health benefits, including those that are needed to pay for the diagnosis, treatment, and prevention of COVID-19 like hospital care, emergency care, laboratory services, or preventive services. Junk plans aren't even required to cover preventive services at no cost to patients, meaning they could stick patients with the bill for a potential coronavirus vaccine in the middle of an outbreak.

The Trump Administration's subsequent 1332 guidance creates additional risks for addressing outbreaks. In addition to expanding the sale of STLDI, this guidance proposes that states allow the sale of other kinds of plans that would not cover essential health benefits, including laboratory services, hospital services, emergency care, and preventive care. This guidance would

⁵ <https://www.miamiherald.com/news/health-care/article240476806.html>

even let states encourage residents to sign up for junk plans by using taxpayer dollars to subsidize them.

Additionally, instead of promoting policies to support one of our most effective public health tools, the Medicaid program, this Administration is doing everything in its power to undermine it. Medicaid plays a critical role in helping states respond to disasters and public health emergencies. For example, Medicaid was able to provide enhanced funding and coverage in response to public health crises such as the Zika virus outbreak in Puerto Rico, the water contamination in Flint, Michigan, and the national opioid epidemic.⁶

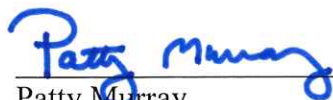
Yet, this Administration continues to attack the Medicaid program at every turn. As part of its 2021 budget, this Administration proposes to slash Medicaid by \$920 billion. It has also proposed to gut Medicaid through block grants and caps that would restrict the ability of states to respond to public health emergencies like the coronavirus. It continues to support other harmful proposals, including policies included in the Medicaid fiscal accountability regulation that would slash funding to states, rescissions of access protections, the public charge rule and more that threaten access to essential care for those impacted by public health crises. It also has promoted harmful proposals like work requirements, which have led to patients being kicked off the program and losing access to affordable health care.

Finally, if successful, the Administration's ACA lawsuit would rip away health coverage from millions of Americans benefiting from the Medicaid expansion and the exchanges who depend on these programs for access to essential care including preventive services such as vaccines and diagnostic tests. The Administration is trying to allow all insurers to once again be able to discriminate against people with pre-existing conditions. If the lawsuit is successful, a patient who comes down with COVID-19 could face future discrimination by their insurer, denying them crucial care.


To give patients and providers the tools to grapple with this developing public health crisis, we ask that you take immediate action to ensure the affordability of a potential coronavirus vaccine. We also ask that you rescind the Administration's "junk" plan rule, withdraw the 2018 guidance that undermines implementation of the 1332 waiver guardrails as Congress intended, and stop the ongoing attacks on the Medicaid program, including the recently proposed block grant policy and other policies that would undermine this critical public health tool. Now more than ever, it is essential to protect patients and families and to encourage them to seek appropriate care when they become ill. We look forward to your response.

⁶ <https://www.macpac.gov/wp-content/uploads/2018/03/Medicoids-Role-in-Disasters-and-Public-Health-Emergencies.pdf>

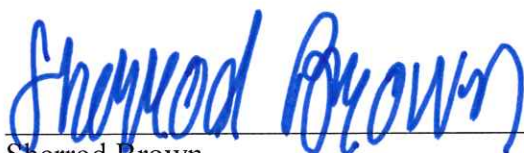
Sincerely,



Patty Murray
United States Senator



Ron Wyden
United States Senator



Sherrod Brown
United States Senator



Edward J. Markey
United States Senator



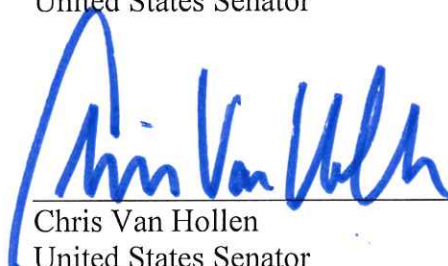
Charles E. Schumer
United States Senator



Richard Blumenthal
United States Senator



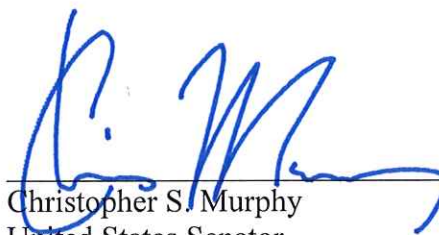
Richard J. Durbin
United States Senator



Chris Van Hollen
United States Senator




Sheldon Whitehouse
United States Senator



Christopher S. Murphy
United States Senator



Jack Reed
United States Senator



Tammy Baldwin
United States Senator



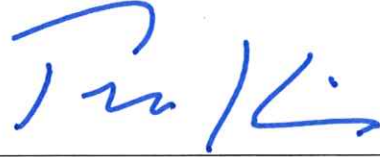
Jeffrey A. Merkley
United States Senator



Kirsten Gillibrand
United States Senator



Amy Klobuchar
United States Senator



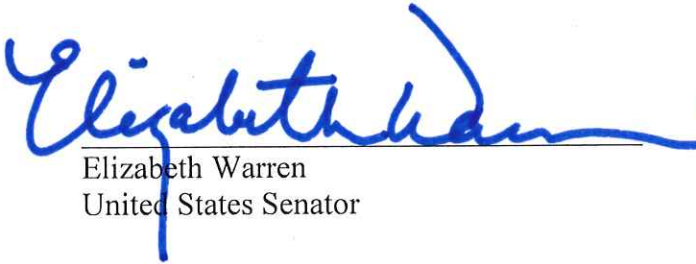
Tim Kaine
United States Senator



Debbie Stabenow
United States Senator



Catherine Cortez Masto
United States Senator



Elizabeth Warren
United States Senator



Kamala D. Harris
United States Senator



Brian Schatz
United States Senator



Martin Heinrich
United States Senator



Jacky Rosen
United States Senator



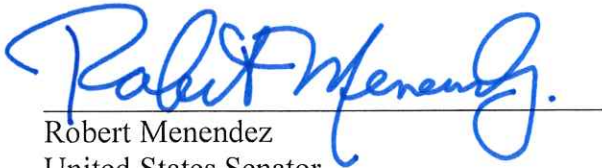
Robert P. Casey, Jr.
United States Senator



Jeanne Shaheen
United States Senator



Margaret Wood Hassan
United States Senator



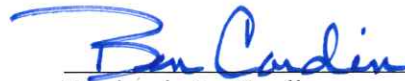
Robert Menendez
United States Senator



Cory A. Booker
United States Senator



Patrick Leahy
United States Senator



Benjamin L. Cardin
United States Senator



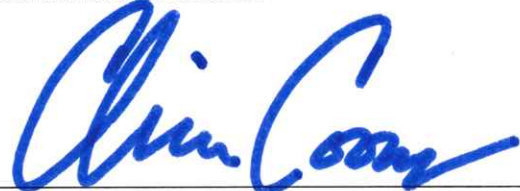
Mark R. Warner
United States Senator



Tina Smith
United States Senator



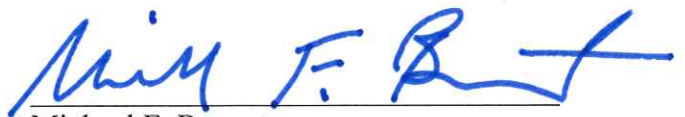
Mazie K. Hirono
United States Senator



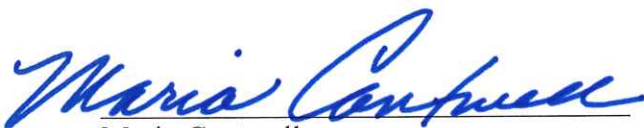
Christopher A. Coons
United States Senator



Gary C. Peters
United States Senator



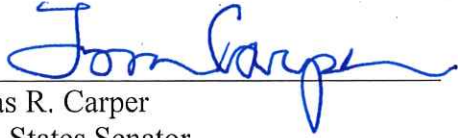
Michael F. Bennet
United States Senator



Maria Cantwell
United States Senator



Bernard Sanders
United States Senator



Thomas R. Carper
United States Senator