

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641
September 11, 2017

The Honorable Thomas E. Price, M.D.
Secretary
U.S. Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

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

Dear Secretary Price and Administrator Verma:

We are writing to request additional information regarding the Administration's plans to cut funding for the Affordable Care Act's (ACA) Navigators and slash funding for open enrollment marketing and advertising by 90 percent. The Administration's continued efforts to depress Marketplace enrollment and sabotage the ACA threaten to destabilize insurance markets and raise premiums for millions of consumers, contrary to the President's promise to provide quality, affordable "insurance for everybody."¹

The ACA's Navigator program provides funding to nonprofits and health care organizations to promote awareness and provide in-person assistance to consumers with Marketplace enrollment. Navigators serve a crucial role in reducing the uninsured rate because their efforts target individuals who may need extra assistance with the enrollment process. According to the Kaiser Family Foundation, 79 percent of Marketplace enrollees who sign up with in-person assistance do so because they "lack confidence to apply on their own."²

¹ *6 promises Trump has made about health care*, Politico (Mar. 13, 2017) (www.politico.com/story/2017/03/trump-obamacare-promises-236021).

² Kaiser Family Foundation, *2016 Survey of Health Insurance Marketplace Assister Programs and Brokers* (June 8, 2016).

Difficulty understanding plan choices, language barriers, and limited access to the Internet further inhibit these enrollees from signing up for coverage. Beyond the role they serve in promoting enrollment, Navigators also serve as valuable resources for enrollees seeking to better understand their coverage. Many enrollees rely on Navigators for assistance even after they have signed up for coverage. For example, Navigators help individuals obtain tax credits and cost-sharing subsidies, and they assist enrollees with filing appeals of claim denials when necessary.

On August 31st, the Trump Administration announced its intention to cut the funding of the Navigator program by over 40 percent.³ Additionally, the Trump Administration announced its intention to tie funding levels to how closely Navigators came to meeting their “enrollment targets” during the 2017 enrollment period.⁴ The Centers for Medicare & Medicaid Services (CMS) questioned the effectiveness of the Navigator program, claiming that Navigators failed to meet enrollment targets⁵ and that cuts were being made to “save money.”⁶

We are concerned that the Administration’s decision to cut funding for the Navigator program is driven neither by concerns regarding the effectiveness of Navigators nor by a desire to safeguard taxpayer dollars. Rather, it appears that the decision fits within a pattern of Administration efforts to depress enrollment and sabotage the ACA, including the decision to pull advertising during the final days of open enrollment in January 2017,⁷ as well as the use of public funds to conduct an ongoing propaganda campaign designed to damage public opinion of the ACA.⁸

³ Centers for Medicare & Medicaid Services, *Policies Related to the Navigator Program and Enrollment Education for the Upcoming Enrollment Period* (Aug. 31, 2017) ([cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Policies-Related-Navigator-Program-Enrollment-Education-8-31-2017pdf.pdf](https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Policies-Related-Navigator-Program-Enrollment-Education-8-31-2017pdf.pdf)).

⁴ *Id.*

⁵ *Trump Administration Sharply Cuts Spending on Healthcare Law Enrollment*, New York Times (Aug. 31, 2017) (www.nytimes.com/2017/08/31/health/affordable-care-act-trump-spending.html).

⁶ *Trump Administration plans on making 90 percent cut to Obamacare ad budget*, ABC News (Aug. 31, 2017) (<http://abcnews.go.com/Politics/trump-administration-plans-making-90-percent-cut-obamacare/story?id=49551071>).

⁷ *‘Sabotage’: Trump administration reportedly killed Obamacare ads for HealthCare.gov with less than a week to go in open enrollment*, CNBC (Jan. 26, 2017) (www.cnbc.com/2017/01/26/trump-administration-kills-obamacare-ads-for-healthcaregov.html).

⁸ *Team Trump Uses Obamacare Money to Run PR Effort Against It*, The Daily Beast (July 20, 2017) (www.thedailybeast.com/team-trump-used-obamacare-money-to-run-ads-against-it).

Many Navigator grantees were reportedly assured by CMS employees that the Agency intended to support their activities in the coming year.⁹ Indeed, it appears that CMS was poised to award grants under the Navigator program at the overall funding level of \$60 million, which is substantially similar to the amount awarded in 2016, as late as the day before the Agency's funding announcement on August 31st. This amount was reportedly even entered into the Agency's accounting system.¹⁰ These reports seem to indicate that there was a sudden decision to override the funding level initially determined appropriate by the Agency. We are concerned that this decision may have been driven by political considerations and efforts to sabotage the ACA, and we seek further information to better understand the course of events leading up to CMS's funding announcement.

Furthermore, there have been reports that Navigators, whose grants from last year ran out on September 1st, have yet to receive funding from the Administration and may not receive it until as late as September 30th.¹¹ Officials at the U.S. Department of Health and Human Services (HHS) noted that funding will not be retroactive when awarded, such that there may be no budget for activities in the month of September. With less than two months before the start of open enrollment, Navigators are being forced to lay off staff, cancel outreach work, and even shut down because they have not received funds.¹² The decision to pull the rug out from these organizations just weeks before open enrollment begins is a clear attempt to undermine the ACA and create chaos in the insurance market.

Additionally, the Trump Administration announced that it will slash the open enrollment advertising budget from \$100 million to \$10 million. Administration officials justified this cut by claiming that public awareness of the ACA and the open enrollment period is already high, and that advertising was producing "diminishing returns."¹³ However, a study published by The Commonwealth Fund just last year found that, of those individuals who remain uninsured, nearly 4 in 10 are not aware of the Marketplaces and open enrollment.¹⁴ Moreover, for 2018, the

⁹ *HHS told Obamacare workers their budget was safe – then slashed it 40 percent*, Vox (Sept. 1, 2017) (vox.com/health-care/2017/9/1/16243232/voxcare-hhs-obamacare-budget).

¹⁰ *Exclusive: I believe this is what's called a 'scoop,' ACASignups.net* (Sept. 3, 2017) (<http://acasignups.net/17/09/04/exclusive-i-believe-whats-called-scoop>).

¹¹ *This is the most brazen act of Obamacare sabotage yet*, Vox (Sept. 8, 2017) (www.vox.com/policy-and-politics/2017/9/8/16268572/trump-obamacare-navigators).

¹² *Id.*

¹³ *Slashing advertising and outreach funds, Trump takes his sabotage of Obamacare to a new level*, Los Angeles Times (www.latimes.com/business/hiltzik/la-fi-hiltzik-trump-obamacare-20170901-story.html).

¹⁴ *The Commonwealth Fund, Most Adults with Marketplace or Medicaid Coverage Continue to Be Satisfied with Their Health Insurance, But Many Remain Uninsured*.

Administration slashed the length of open enrollment in half, from three months to six weeks.¹⁵ The period during which people can sign up will run only from November 1st through December 15th. Without a vigorous advertising campaign, many potential enrollees may miss the deadline.

CMS claims it will concentrate its meager ad spending on digital media and text messages, which it claims “have proven the most effective in reaching existing and new enrollees.”¹⁶ However, it is unclear what data the Administration is relying on to draw this conclusion. In fact, a study published earlier this year found a strong relationship between the volume of TV ads and reductions in the uninsured rate under the ACA.¹⁷

To better understand the reasons for the Administration’s decision to cut funding to ACA Navigators and marketing and advertising, we request that HHS respond to the following questions by September 25th, 2017:

1. Did the Agency initially decide to fund the Navigator program at \$60 million for the 2018 open enrollment season? How did the Agency arrive at this funding level?
 - a. Who was responsible for reversing this decision and imposing a 40 percent cut on funding for the Navigator program? When was this decision made?
 - b. When was the methodology for tying Navigator funding to enrollment targets developed? Was this methodology determined prior to the decision to cut funding levels, or was it a post-hoc justification for cutting funding levels by 40 percent?
 - c. Please provide all documents or communications pertaining to the decision to cut funding for Navigators, including documents pertaining to the decision to tie Navigator funding to enrollment targets and the number of enrollees signed up during the 2017 open enrollment period.
2. What is the reason for the delay in distributing this year’s grants to Navigators? When was the decision made to withhold funding from Navigators during the month of September, and who was responsible for this decision?

¹⁵ U.S. Department of Health and Human Services, *Patient Protection and Affordable Care Act; Market Stabilization*, 82 Fed. Reg. 18346 (April 18, 2017) (Final Rule)

¹⁶ See note 13.

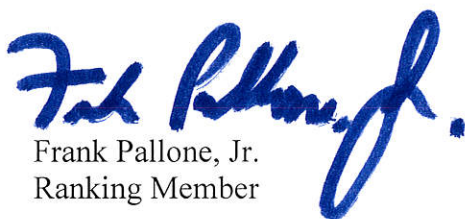
¹⁷ Pinar Karaca-Mandic et. al, *The Volume of TV Advertisements During the ACA’s First Enrollment Period Was Associated With Increased Insurance Coverage*, Health Affairs (Apr. 2017) (<https://assets.documentcloud.org/documents/3985480/HA-on-TV.pdf>).

- a. When will the funds become available to grantees? Will grantees be able to use the funds retroactively to cover expenses incurred during the month of September?
 - b. Has any analysis been conducted as to how withholding funds from Navigators will affect outreach activities and, as a result, Marketplace enrollment during the upcoming open enrollment period? Please provide all such analyses.
 - c. Please provide all documents or communications pertaining to the decision to withhold funding from Navigators during the month of September.
3. How does CMS intend to use the funds that it is diverting from the Navigator program? Will these funds be used to promote enrollment for the 2018 open enrollment period through other activities?
 - a. Please provide an itemized list of how funds diverted from the Navigator program will be used in the upcoming year.
4. Has CMS conducted any analyses of how advertising affects Marketplace enrollment? Did the Agency consider or consult any such analyses before making the decision to cut the advertising budget by 90 percent?
 - a. Please provide all such analyses, including, but not limited to, analyses conducted by CMS or its contractors for previous open enrollment seasons.
 - b. Please provide a detailed plan – including an itemized list of all planned expenditures related to advertising, marketing, communications and outreach – of how CMS intends to ensure robust enrollment, despite the shortened open enrollment period, cuts in advertising, and reductions in funding for Navigators.
 - c. Did the Agency take into account the shortened open enrollment period when making the decision to slash funding for advertising? Please provide any such analyses.
5. Has CMS conducted any analyses of how the decision to eliminate advertising in the final days of the 2017 open enrollment season impacted enrollment for the 2017 plan year? Did the Agency consider or consult any such analyses before making the decision to cut the advertising budget by 90 percent?

- a. Please provide all such analyses, including, but not limited to, analyses conducted by CMS or its contractors for previous open enrollment seasons.
6. Please provide all research and analyses Administration officials used to determine that “most Americans are aware of the [ACA] at this point” as justification for its decision to cut the marketing budget for the 2018 enrollment season by 90 percent.
7. Please provide all research and analyses Administration officials used to determine that digital media and text messages “have proven the most effective in reaching existing and new enrollees.”
8. Please provide all research and analyses anticipating the impact that cutting funding to Navigators and marketing and advertising will have on Marketplace enrollment for the 2018 open enrollment period, as well as for subsequent open enrollment periods.

Your prompt attention to this matter is greatly appreciated. Should you have any questions, please contact Christina Calce, Kevin McAloon, or Una Lee of the Democratic Committee Staff at (202) 225-3641.

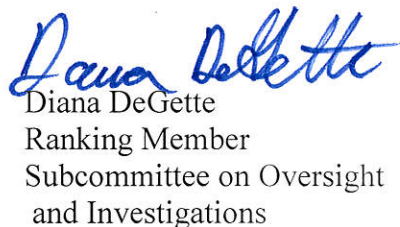
Sincerely,



Frank Pallone, Jr.
Ranking Member



Gene Green
Ranking Member
Subcommittee on Health



Diana DeGette
Ranking Member
Subcommittee on Oversight
and Investigations



Kathy Castor
Vice Ranking Member
Committee on Energy and Commerce