

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

August 13, 2020

Larry J. Merlo
President and Chief Executive Officer
CVS Health
One CVS Drive
Woonsocket, RI 02895

Dear Mr. Merlo:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee is investigating actions taken by the health and dental insurance industries during the coronavirus disease of 2019 (COVID-19) pandemic and conducting oversight of both the Families First Coronavirus Response Act (the Families First Act) and the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act). We are concerned that some health plans may not be complying with both of these laws, and that consumers are therefore experiencing increased barriers to free COVID-19 testing. Meanwhile, many of the nation's largest health insurance companies—including your company—recently reported massive profits despite widespread economic turmoil, largely due to enrollees' reduced use of health care services.¹

These developments raise important questions about the extent to which the insurance industry may be profiting off the pandemic while simultaneously taking action to reduce access to free COVID-19 testing. We write to request information about your company's coverage policies and practices for COVID-19 tests and related items and services. Additionally, we are requesting information on whether these increased profits are being used to provide consumers relief, such as through premium reductions, rebates, zero cost-sharing for COVID-19 treatments, or other financial assistance.

Increasing the availability of COVID-19 testing and making testing more accessible are critical steps in stopping the spread of the virus and safely reopening our nation's communities. Congress's primary goal with both the Families First Act and the CARES Act was to increase access to widespread testing, and to eliminate any financial barriers to individuals receiving

¹ *Major U.S. Health Insurers Report Big Profits, Benefiting from the Pandemic*, New York Times (Aug. 5, 2020); *U.S. Health Insurers Profits Boom Amid Pandemic*, Forbes (Aug. 6, 2020); *UnitedHealth Group Profit Doubles to \$6.6 Billion with COVID-19 Slowdown*, StarTribune (July 15, 2020).

COVID-19 tests. The Families First Act requires individual and group market health plans to provide coverage of COVID-19 tests and related items and services without imposing any cost-sharing requirements, including deductibles, copayments, and coinsurance. The Families First Act also prohibits prior authorization or other medical management requirements for COVID-19 testing. Additionally, the Families First Act requires individual and group market health plans to provide coverage for related items and services, including health provider office visits, urgent care visits, and emergency room visits, that result in an order or administration of a COVID-19 test at zero cost-sharing. Similarly, the CARES Act requires individual and group market health plans to cover a broad range of diagnostic items and services in order to detect COVID-19 without any cost-sharing, including serological tests used to detect antibodies against COVID-19.

Congress intended for the broad application of both these laws, as evidenced by the statutory language in the Families First Act and the CARES Act. However, there have been troubling reports of insurers' refusal to provide coverage of COVID-19 tests without any cost-sharing, which is not in accordance with the law. A number of insurers are providing coverage only for individuals who exhibit symptoms consistent with COVID-19 and are refusing to provide coverage of tests for asymptomatic individuals, including as part of public health monitoring efforts.² Some health plans are also declining to provide coverage of COVID-19 serology testing.³ There also have been reports of health plans requiring cost-sharing from consumers, which is prohibited under the law.⁴ Additionally, over the past several weeks we have received a number of inquiries from other Congressional offices about troubling instances in which insurers are failing to provide coverage of COVID-19 testing at zero cost-sharing for asymptomatic individuals.

In response to these reports, on July 7, 2020, Chairman Pallone and other Democratic health leaders sent a letter to the Trump Administration expressing serious concerns about the Administration's guidance regarding coverage of COVID-19 testing, and some health insurers' refusal to provide coverage of COVID-19 diagnostic and serological tests.⁵

² *Insurers limit which coronavirus tests they'll pay for*, Axios (June 10, 2020).

³ *Id.*

⁴ *Congress said COVID-19 tests should be free – but who's paying?*, Modern Healthcare (May 22, 2020).

⁵ Letter from Rep. Frank Pallone, Jr., Chairman, House Committee on Energy and Commerce, Rep. Richard Neal, Chairman, Committee on Ways and Means, Rep. Robert "Bobby" Scott, Chairman, Committee on Education and Labor, Sen. Ron Wyden, Ranking Member, Committee on Finance, Sen. Patty Murray, Ranking Member, Committee on Health, Labor, Education, and Pensions, to Secretary Alex Azar II, Secretary Eugene Scalia, and Secretary Steven Mnuchin (July 7, 2020).

Now, at the same time that some insurance companies have reportedly failed to provide COVID-19 testing coverage free of cost-sharing, the health insurance industry appears to be having a banner year. In some cases, insurers have doubled their quarterly profits as compared to last year.⁶ It appears these increased profits are largely the result of insurers spending less on consumers' medical benefits during the COVID-19 pandemic.⁷ For instance, with many hospitals overwhelmed by the surge of patients suffering from COVID-19, elective surgeries have been canceled or postponed, saving insurers potentially billions of dollars in forgone medical claims.⁸ Similarly, dental practices throughout the country were asked to postpone patient appointments or forced to close their offices temporarily to help slow the spread of the coronavirus.⁹ Many insurers are also reportedly spending significantly less on their customers' routine or preventive health care benefits, which may include dental benefits, as compared to the prior year—far exceeding the unexpected costs incurred due to the coronavirus.¹⁰ All told, it appears the ongoing COVID-19 pandemic has financially benefitted insurance companies as millions of Americans forgo care. This is precisely why the Affordable Care Act (ACA) caps health insurance companies' profit margins and requires them in certain instances to issue rebates to consumers on premiums paid.¹¹

In a time of national crisis and when many families are struggling financially, the insurance industry must do its part to assist individuals who are deferring medical procedures, avoiding doctors' offices, or otherwise not using the health insurance for which they are paying. This includes issuing consumer rebates as required under the ACA, but also providing immediate relief to consumers, such as through premium credits and rebates, coverage of COVID-19 treatments without cost-sharing, and rigorous adherence to all COVID-19 testing coverage requirements mandated by law.

⁶ *Major U.S. Health Insurers Report Big Profits, Benefiting from the Pandemic*, New York Times (Aug. 5, 2020); *U.S. Health Insurers Profits Boom Amid Pandemic*, Forbes (Aug. 6, 2020); *UnitedHealth Group Profit Doubles to \$6.6 Billion with COVID-19 Slowdown*, StarTribune (July 15, 2020).

⁷ *Id.*

⁸ *Id.*

⁹ *How's the Economy Doing? Watch the Dentists*, New York Times (June 10, 2020); *Why Dentists Are Feeling Some Pain*, Modern Healthcare (May 23, 2020).

¹⁰ *Major U.S. Health Insurers Report Big Profits, Benefiting from the Pandemic*, New York Times (Aug. 5, 2020); *U.S. Health Insurers Profits Boom Amid Pandemic*, Forbes (Aug. 6, 2020); *UnitedHealth Group Profit Doubles to \$6.6 Billion with COVID-19 Slowdown*, StarTribune (July 15, 2020).

¹¹ Department of Health and Human Services, *Medical Loss Ratio Requirements Under the Patient Protection and Affordable Care Act*, 76 Fed. Reg. 76,574 (Dec. 7, 2011); *Major U.S. Health Insurers Report Big Profits, Benefiting from the Pandemic*, New York Times (Aug. 5, 2020).

Additionally, as communities across the country open, it is critical that people have access to COVID-19 tests without any financial barriers or limitations. Individuals must be allowed to return to work in a safe environment, and widespread testing must be in place to detect and stop the spread of COVID-19. Large scale testing is the only way we can get beyond the COVID-19 crisis until a vaccine is available, and insurers who are imposing restrictions on coverage of COVID-19 testing are making this task harder.

In order to assist the Committee's oversight efforts, we are requesting information and responses to the following questions as soon as possible, but no later than August 27, 2020:

1. Please provide the following information:
 - a. Your company's net income and/or earnings for years 2018, 2019, and Quarter 1 and Quarter 2 of 2020, broken down by line of business, including stand-alone dental.
 - b. For each line of business, please provide the total amount of member premiums collected and claims paid out for years 2018, 2019, and Quarter 1 and Quarter 2 of 2020. In your response, please provide the total amount of claims paid out for each year and a breakdown of claims paid out for each month for that year.
2. Is your company providing financial assistance to enrollees during the COVID-19 pandemic, including through premium credits, grace periods, or rebates? If so, please describe these efforts.
 - a. Please provide the overall dollar amount of such assistance to consumers, broken down on a weekly basis for Quarter 1 and Quarter 2 of 2020.
3. Is your company providing financial assistance to employers during the COVID-19 pandemic, including through premium credits, grace payments or insurance premium holidays? If so, please describe these efforts.
 - a. Please provide the overall dollar amount of such assistance to employers, broken down on a weekly basis for Quarter 1 and Quarter 2 of 2020.
4. Is your company providing financial assistance to providers during the COVID-19 pandemic, including through increasing provider reimbursement, or low or zero cost loans? If so, please describe these efforts.
 - a. Please provide the overall dollar amount of such assistance to providers, broken down on a weekly basis for Quarter 1 and Quarter 2 of 2020.
 - b. For your company's stand-alone dental plans, is your company reimbursing providers for Personal Protective Equipment (PPE) or providing coverage for consumers' PPE charges?

5. Please describe your company's COVID-19 testing coverage policies and practices. Please provide the Committee with all documents that describe your company's policies regarding coverage of all items and services related to diagnostic testing for the detection of COVID-19, and for items and services related to serological testing used to detect antibodies against COVID-19.
 - a. In your response, describe if your company has ever denied coverage for COVID-19 tests for symptomatic or asymptomatic people, and if so, why.
6. Please provide the Committee information on how your company is defining "related items and services" that result in an order or administration of a COVID-19 test.
 - a. Please provide information on whether any consumer has been subject to cost-sharing for a COVID-19 test or for any related items or services that result in an order or administration of a diagnostic test or serological test for COVID-19. If so, please provide all available information on the amount charged.
7. Please provide your company's total volume of claims for COVID-19 diagnostic testing and serologic testing.
 - a. Please provide the average and median reimbursement rate for COVID-19 diagnostic testing and serological testing, on an in-network and out-of-network basis.
8. Please provide the Committee with all documents that describe your company's policy regarding coverage of COVID-19 treatment and related items and services.
 - a. Is your company providing no cost-sharing for COVID-19 treatment currently? If so, to what date will your company extend no cost-sharing?
9. Has your company received complaints from consumers billed for diagnostic tests or serological tests for COVID-19 and related items and services? If so, please provide copies and records of all such consumer complaints, and any documentation of action you took in response.

Mr. Larry J. Merlo
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Thank you for your prompt attention to this matter. If you have any questions about this request, please contact Mohammad Aslami, Peter Rechter, and Saha Khaterzai of the Majority staff at (202) 225-2927.

Sincerely,



Frank Pallone, Jr.
Chairman



Anna G. Eshoo
Chairwoman
Subcommittee on Health



Diana DeGette
Chair
Subcommittee on Oversight
and Investigations