

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

March 13, 2019

Mr. Scott N. Flanders
Chief Executive Officer
eHealth
2625 Augustine Drive
Second Floor
Santa Clara, CA 95054

Dear Mr. Flanders:

We are writing to request information about your company's sale of short-term limited duration health insurance (STLDI) plans. Pursuant to Rules X and XI of the U.S. House of the Representatives, the Committee on Energy and Commerce is conducting oversight of STLDI and companies that assist consumers enroll in STLDI plans. The Committee's examination of these plans has yielded disturbing information about STLDI. STLDI discriminate against individuals with pre-existing conditions and put consumers at significant financial risk. We are very concerned that consumers who sign up for these plans are being misled by insurance brokers and agents about the nature of the coverage they are purchasing. Consumers are furthermore being denied coverage even for medical care that is rightfully covered under the terms of their contract, through a process known as post claims underwriting. We seek further information about your company's role in the sale of STLDI and your knowledge about these industry practices.

We are very concerned that consumers enrolling in STLDI plans through your company's insurance brokers and agents are denied coverage entirely, charged more based on age, gender, or health status, or denied access to basic health care benefits such as prescription drugs, treatment for substance use disorders, and maternity coverage. We are also concerned that consumers who sign up for these plans are often left without comprehensive coverage for expensive health care costs if STLDI insurers retroactively or prospectively rescind or deny coverage for care that may stem from what they deem a pre-existing condition. For example, the *New York Times* has reported on cases where a heart attack victim was left with \$900,000 in medical bills after his insurer refused to cover bypass surgery under his STLDI plan, and a stroke victim "was left with \$250,000 in unpaid medical bills because the policy did not cover

prescription drugs and other basic treatment.”¹ Commissioner Jessica Altman of the Pennsylvania Insurance Department testified in front of the Committee of numerous incidents involving consumers enrolled in STLDI plans whose coverage were retroactively rescinded by insurers.²

We are concerned that consumers who enroll in STLDI plans are being misled about whether the plans comply with the ACA’s comprehensive consumer protection requirements. The *Times* has further reported on cases of fraudulent marketing practices and insurance brokers failing to disclose to consumers what these products cover.³ Mr. Sam Bloechl, a patient from Chicago, wrote in a testimony to the Committee that he enrolled in a STLDI policy through an insurance broker.⁴ Mr. Bloechl disclosed to the insurance broker that he was experiencing back pain and was looking to enroll in a policy that provided comprehensive coverage. The broker assured him that any medical treatment would be covered under the STLDI plan. Soon after enrolling in the STLDI plan, Mr. Bloechl was diagnosed with cancer and the STLDI insurer refused to pay for his treatment, leaving him with \$800,000 in medical bills. The insurer deemed Mr. Bloechl’s cancer diagnosis a pre-existing condition, even though Mr. Bloechl was diagnosed with cancer after he enrolled in the STLDI plan. It seems as though the broker misled Mr. Bloechl about the benefits covered under the STLDI plan.

A study by the Georgetown University Health Policy Institute also found that insurance brokers and agents selling STLDI plans often engage in marketing tactics that can mislead consumers about the nature of the insurance policy they are purchasing, and often fail to provide consumers with detailed plan information such as the medical services and benefits excluded from coverage.⁵ The report found that brokers and agents selling STLDI plans over the phone pressure consumers to quickly purchase STLDI plans without providing written information, including information on the benefits covered. Consumers seeking to enroll in plans that provide comprehensive protections are also most often directed to websites and brokers selling STLDI

¹ New York Times, *Without Obamacare Mandate, ‘You Open the Floodgates’ for Skimpy Health Plans*, (Nov. 30, 2017) (www.nytimes.com/2017/11/30/health/health-insurance-obamacare-mandate.html).

² House Committee on Energy and Commerce, Subcommittee on Health, Testimony of Jessica Altman, Commissioner, Pennsylvania Insurance Department, *Hearing on Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections*, 116th Cong. (Feb.13, 2019).

³ See note 1.

⁴ House Committee on Energy and Commerce, Subcommittee on Health, Testimony of Sam Bloechl, *Hearing on Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections*, 116th Cong. (Feb.13, 2019).

⁵ Georgetown University Health Policy Institute, *The Marketing of Short-Term Health Plans: An Assessment of Industry Practices and State Regulatory Responses*, (Jan. 2019) (www.rwjf.org/en/library/research/2019/01/the-marketing-of-short-term-health-plans.html).

plans. Commissioner Altman wrote in her testimony to the Committee that insurance brokers often make it difficult for consumers to access information on the benefits covered in STLDI plans.⁶

In light of these concerns, we request documents and responses to the following questions:

1. Do your company's insurance brokers and agents help individuals enroll in STLDI plans that do not comply with the consumer protections that apply to the individual insurance market under the ACA, including by failing to cover the essential health benefits package, imposing annual and lifetime maximums on benefits, rescinding or denying coverage, or failing to pay medical claims based on pre-existing conditions? Such plans could include but are not limited to "bundled" insurance that combine two or more STLDI plans.
 - a. Please provide enrollment data on how many individuals your company has helped enroll in STLDI plans for each state in which you market these plans, including month by month enrollment data for the most recent twelve months.
 - b. Please provide information on how many individuals were enrolled in STLDI plans through your company's website, phone sales, and in-person assistance.
 - c. If your company's brokers and agents assist individuals enroll in ACA-compliant plans, please provide information on the percentage of individuals enrolled in STLDI plans compared to ACA-compliant plans.
2. Please provide an explanation of how your company markets STLDI plans to consumers, including whether this information is provided through your company's website, phone sales, or in-person assistance.
3. Please provide information on how much commission your company's brokers and agents receive for STLDI plans.
 - a. If your company helps facilitate the sale of ACA-compliant plans, please provide information on how much commission your company's brokers and agents receive for STLDI plans compared to commission for ACA-compliant plans.
4. Please provide all documents provided to applicants seeking to purchase STLDI plans through your company's brokers and agents, including plan applications, all underwriting documents, and health questionnaires that applicants must answer about their health status and medical history. If no such documents exist, please provide any and all

⁶ See note 3.

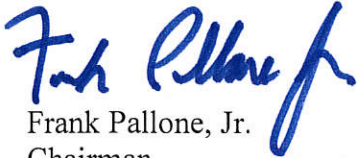
documents you provide to applicants seeking to purchase STLDI plans through your company.

- a. What percentage of applicants are denied coverage for these plans?
 - b. What percentage of applicants who are issued coverage are known by the company to have one or more pre-existing medical conditions at the time of enrollment?
5. Please provide copies of marketing materials and plan documents for policies offered in each state in which you market these plans. If no such documents exist, please provide any and all documents you provide to consumers who purchase STLDI plans through your company to explain the benefits and coverage they have just purchased, including plan contracts and official offers of coverage.
6. Have you received complaints from consumers who enrolled in STLDI plans through your company's agents and brokers, and then discovered the STLDI plan does not offer comprehensive coverage for basic health care services? Or, have insurance regulators in any state notified your company about complaints that consumers have made to them regarding your company's brokers and agents?
 - a. Have you received complaints from consumers or from insurance regulators in any state about deceptive marketing?
 - b. Do you have a mechanism for receiving, tracking, and responding to all consumer complaints?
 - c. Please provide copies or records of all such complaints, and any documentation of actions you took in response. Please include the nature of the complaints, such as complaints about covered benefits and inaccurate marketing.

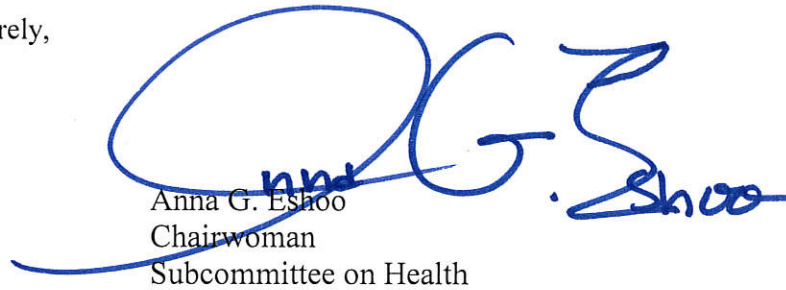
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We appreciate your prompt attention to this matter. If you have any questions, please contact Saha Khaterzai with the Committee staff at (202) 225-2927.

Sincerely,



Frank Pallone, Jr.
Chairman



Anna G. Eshoo
Chairwoman
Subcommittee on Health



Diana DeGette
Chair
Subcommittee on Oversight
and Investigations