

Congress of the United States
Washington, DC 20515

December 19, 2017

Edward Pettola
Owner
Xpress Healthcare
1051 Millcreek Drive
Feasterville, PA 19053

Dear Mr. Pettola:

We are writing to express concern regarding recent reports that your company is offering products on the individual market that may not comply with federal law, and which appear to put consumers at great financial risk. These stripped-down health insurance plans could leave families on the hook for tens of thousands of dollars in health care costs, and we seek answers about these products.

The Affordable Care Act (ACA) addressed long-standing problems in the health insurance market, including the practice of insurance companies denying patients coverage for preexisting conditions, dropping coverage when patients became sick or hospitalized, and failing to cover essential services. Consumers now enjoy protection from these unfair practices.

However, recent reports indicate that your company is avoiding or ignoring these requirements under the ACA by offering “skinny plans” that claim to be ACA-compliant, but do not offer the same consumer protections required for plans sold in the individual market.¹ For example, your company claims that “[o]ur Xpress MEC Plans are an ACA Compliant, affordable, integrated solution that help employers and individuals avoid the penalties under [the ACA].”² Despite being marketed as “ACA Compliant,” it appears that Xpress Healthcare is selling plans that fail to meet the ACA’s basic consumer protections such as coverage of hospitalization and the prohibition against insurers setting annual or lifetime limits on coverage.³

In addition to these questionable marketing practices, it is unclear whether you are properly licensed under state law to sell these plans in the individual market.⁴ Xpress Healthcare appears to be selling these insurance policies across the country, and your company has reportedly claimed that it does not need approval from state regulators to sell the plans.⁵ Xpress Healthcare claims that these policies “are NOT insurance.”⁶ While there is significant variation in state insurance law, it certainly appears that you are selling health insurance, and we are concerned that you are attempting to use the claim of not selling insurance to evade state insurance regulations and consumer protections.

¹ *Marketplace Confusion Opens Door To Questions About Skinny Plans*, Kaiser Health News (Nov. 27, 2017).

² Xpress Healthcare, *Free Yourself from Traditional Health Benefit Costs: Achieve New Heights with Xpress Healthcare's Minimal Essential Coverage Health Plans*, (xhc.xpressenrollment.com/gmec/) (accessed Dec. 5, 2017).

³ See note 1.

⁴ *Id.*

⁵ *Id.*

⁶ Xpress Healthcare, *Xpress MEC Application*, (xhc.xpressenrollment.com/iMECapp/) (accessed Dec. 5, 2017).

We are also concerned that consumers who sign up for these plans are being misled about whether the plans comply with ACA requirements, which could leave consumers without comprehensive coverage. The *New York Times* has reported on cases of insurance brokers fraudulently marketing these plans and failing to advise consumers about what they cover.⁷ These cases reportedly include a heart attack victim who was left with \$900,000 in bills after his insurer refused to cover bypass surgery under his short-term plan, and a stroke victim who “was left with \$250,000 in unpaid medical bills because the policy did not cover prescription drugs and other basic treatment.”⁸ The *Times* further reported that the companies that sell these types of plans “will sometimes rescind policies if an individual has high medical bills.”⁹ These are precisely the types of situations the consumer protections under current law were designed to prevent.

We are concerned that the products you are selling may not be in compliance with state and federal laws, and may leave consumers at significant financial risk. In light of these concerns, we request a briefing as well as documents and responses to the following questions:

1. Does your company sell any individual plans that do not comply with required consumer protections under federal law, such as the essential health benefits package, annual and lifetime out of pocket limits, and prohibitions on rescissions of coverage and coverage denials based on preexisting conditions?
 - a. Are these plans of limited duration (less than 3 months), or do they provide coverage for a full calendar year?
 - b. Please provide a written explanation of why you believe you are in compliance with federal laws governing the sale of health insurance in the individual market.
 - c. Please provide copies of plan documents for policies offered in each state in which you sell these products, including any summary of benefits and coverage. If no such documents exist, please provide any and all documents you provide to consumers who purchase your plans to explain the benefits and coverage they have just purchased.
2. Please provide a written explanation of how your products are not insurance and therefore you are exempt from state laws governing the regulation of insurance and licensure.
 - a. Is the company licensed to sell insurance in any state? If so, please provide all documents relating to such licensure.
3. Have you received complaints from consumers who enrolled in one of your plans and then discovered it does not offer comprehensive coverage for basic health care services?

⁷ *Without Obamacare Mandate, 'You Open the Floodgates' for Skimpy Health Plans*, *New York Times* (Nov. 30, 2017).

⁸ *Id.*

⁹ *Id.*

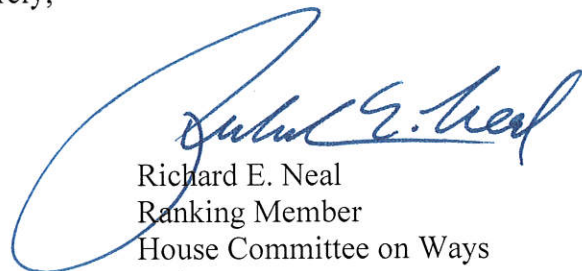
- a. Please provide any copies or records of these complaints, and any documentation of actions you took in response.
4. Have you ever been the subject of any enforcement action taken by state insurance regulators?
- a. If so, please provide copies of any documents pertaining to such enforcement actions. If the action is currently pending or open, please provide a description of the enforcement action, and identify which state regulator or agency has initiated the enforcement action.

We appreciate your attention to this matter. If you have any questions, please contact Kevin McAloon of the Energy and Commerce Committee's minority staff at (202) 225-3641, Melanie Egorin of the House Ways and Means Committee's minority staff at (202) 225-4021, Colin Goldfinch of the Senate HELP Committee's minority staff at (202) 224-6403, or Arielle Woronoff of the Senate Finance Committee's minority staff at (202) 224-4515.

Sincerely,



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



Richard E. Neal
Ranking Member
House Committee on Ways
and Means



Patty Murray
Ranking Member
Senate Committee on Health,
Education, Labor, and Pensions



Ron Wyden
Ranking Member
Senate Committee on Finance