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February 13, 2019

The Honorable Anna Eshoo
Chair
House Committee on Energy and
Commerce
House Health Subcommittee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Michael Burgess
Ranking Member
House Committee on Energy and
Commerce
House Health Subcommittee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Eshoo and Ranking Member Burgess:

AARP is pleased to endorse H.R. 986, H.R. 987, H.R. 1010, and H.R. 1143. All four of these bills would restore and enforce the core consumer protections of the Affordable Care Act (ACA) and we applaud the Subcommittee on Health for holding a hearing to highlight the adverse impacts recent changes implemented by the Administration have had on health insurance for all Americans, especially those age 50-64.

The Affordable Care Act (ACA) addressed key obstacles in availability of health coverage, particularly for Americans age 50-64. Prior to the ACA, health insurance coverage was out-of-reach for many of these Americans not yet eligible for Medicare. Many paid more for less coverage than they do today and most states permitted insurers to charge older Americans five times or more than those who are younger for the same coverage. In many instances, due to a pre-existing condition, coverage was not only unaffordable but also unavailable. The ACA's elimination of pre-existing condition exclusions and its limit on age-rating of 3:1 - combined with the law's coverage subsidies - are critical to ensuring that pre-Medicare eligible Americans can get and afford quality coverage.

Over the past two years, the Administration has issued rules and guidance that put at risk the critical consumer protections enshrined in the ACA. The most debilitating of these actions to these protections are the STLD plan rule and revised Section 1332 waiver guidance. AARP is extremely concerned that the revised Section 1332 guidance not only allows for the sale of non-compliant, non-consumer protected health insurance plans, but it also allows for these plans to be eligible for advanced premium tax credits (subsidies to purchase coverage). Additionally, we have repeatedly raised concern

about the expansion of – and lack of consumer protections for – STLD plans in the individual health insurance market. While in some cases these plans may offer lower premiums, the lack of ACA-compliant consumer protections will undermine the use and value of these policies when someone faces a health emergency.

The revised 1332 guidance and STLD plan rule is particularly impactful to Americans age 50-64. For older Americans, a critical aspect of these consumer protections is the prohibition on denying coverage or charging higher rates for preexisting conditions and the prohibition on charging older Americans more than 3 times the rate of the youngest Americans. The 3:1 age rating provision is crucial in protecting older Americans from paying an “age tax;” essentially having to pay exorbitant rates for health insurance coverage simply because of their age. Prior to enactment of the ACA, health insurance carriers were allowed to charge rates that were often five or ten times higher, effectively rendering health insurance unaffordable to older Americans seeking coverage in the individual market. STLDs are not subject to this prohibition on age rating, allowing for insurers to go well beyond the 3:1 limit when pricing these plans for older Americans.

STLD plans can also charge higher premiums or flat out deny coverage for an individual with a preexisting condition. At least 40 percent of Americans between the ages of 50-64 have what could be characterized by an insurance carrier as a preexisting condition¹. As people age, they tend to develop more health problems, including chronic conditions like congestive heart failure, rheumatoid arthritis, and kidney disease. Because STLDs allow for discrimination in coverage or pricing based on a preexisting condition, older Americans are particularly vulnerable to coverage denial in these plans. While effectively excluding many older Americans from access to these plans, they also draw a younger, healthier population from the individual health insurance marketplace. Not only are these participants at risk for the many conditions and services not covered by these non-complaint plans – such as prescription drugs and mental health – but the segmented market means that those remaining in the ACA marketplace will experience higher premiums.

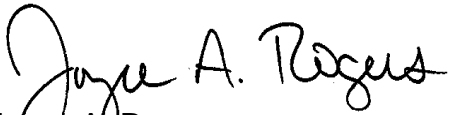
Beyond the lack of consumer protections for these non-complaint plans, we have also expressed our concerns about inadequate guidance for marketing these plans, especially to older Americans. The rule’s notice language is insufficient and is likely to lead to more consumer confusion. The language requires an individual not just to read through hundreds of pages of insurance documentation, it would require an intimate knowledge of insurance products themselves to sufficiently understand the exclusions and potential consequences inherent in purchasing non-compliant plans as coverage. Regardless of the fate of the recent rules and guidance, clear disclosures must be required so that consumers can better identify and understand the implications of their decision.

The ACA has extended quality, affordable coverage to millions of older Americans. Congressional and Administrative efforts should be aimed at strengthening the ACA’s

¹ <https://www.aarp.org/content/dam/aarp/ppi/2017-01/ACA-Protects-Millions-of-Older-Adults-with-Preexisting-Health-Conditions-PPI-AARP.pdf>

consumer protections across all health insurance marketplaces, not eroding them. These four bills and Subcommittee on Health hearing represent an important first step towards these goals and we look forward to working with Members from both sides of the aisle to advance this legislation. If you have any further questions, please feel free to contact me, or have your staff contact Brendan Rose on our Government Affairs staff at brose@aarp.org or 202-434-3770.

Sincerely,

A handwritten signature in black ink that reads "Joyce A. Rogers". The signature is written in a cursive, flowing style.

Joyce A. Rogers
Senior Vice President
Government Affairs

cc: The Honorable Ann M. Kuster
The Honorable Lisa Blunt Rochester
The Honorable Kathy Castor