

Subcommittee on Health
Hearing on
“Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and
Ensure Pre-Existing Conditions Protections”
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Additional Questions for the Record
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The Honorable Debbie Dingell (D-MI)

1. You noted that a recent analysis from the Kaiser Family Foundation showed that no short-term plans covered maternity care in 2018. How will the Trump Administration’s decision to expand short-term plans affect pregnant women in the individual market?

Answer: First, the Trump administration’s decision to expand short-term plans is contributing to higher premiums for consumers, including pregnant women, in the individual market. The burden of higher premiums falls primarily on middle-income families and individuals who are not eligible for subsidies under the Affordable Care Act.

Second, while the Trump administration has asserted that short-term plans provide additional choices in the market, these plans are not an option for pregnant women. These plans are medically underwritten and would likely treat being pregnant as a pre-existing medical condition. Because of this, short-term plan insurers can, and likely do, refuse to offer a policy to a pregnant woman or charge her much higher premiums, making the policy unaffordable.

Finally, short-term plans present a particular risk for women who enroll in this type of coverage and then become pregnant. As you note in your question, these plans typically do not cover maternity care. Thus, enrollees who become pregnant are exposed to significant health and financial risks by having to pay for maternity care on their own or forgoing care that they and their family need.

I am especially concerned about what this might mean for young women. Data from Young Invincibles shows that 83 percent of first-time mothers are between the ages of 18 and 34.¹ Short-term plans are marketed to younger, healthier people—often through

¹ Erin Hemlin, *What’s Happened to Millennials Since the ACA? Unprecedented Coverage and Improved Access to Benefits*, Young Invincibles (Apr. 2017), available at: <http://younginvincibles.org/wp->

aggressive and misleading marketing tactics, as discussed in my written testimony. Young women may enroll in a short-term policy and become pregnant only to find out that the policy will not cover maternity care or other critical services that they may need.

2. The Trump Administration's Section 1332 waiver guidance will let states choose to allow insurance plans that do not follow the ACA's consumer protections as long as at least one ACA compliant plan is offered. Some have tried to argue that this guidance would maintain protections for people with pre-existing conditions because at least one ACA plan would be available. Can you describe how this decision will actually impact people with pre-existing conditions in the individual market?

Answer: The impact of the Section 1332 waiver guidance will depend on the proposals that states develop in response to the Trump administration's guidance. To date, no state has yet applied for a waiver under the Trump administration's relaxed interpretations.

The guidance is, however, concerning because it encourages states to propose waivers that would undermine access to coverage and care for people with pre-existing medical conditions in the individual market. The new guidance encourages states to define "coverage" to include plans that allow for medical underwriting and do not cover pre-existing conditions. As a result, states could allow increased enrollment in short-term plans or other non-comprehensive sources of coverage. The guidance suggests that states could potentially receive federal funding to subsidize these plans, which discriminate against those with pre-existing conditions. The new guidance would also allow for state waivers that increase the number of people with less comprehensive coverage or higher out-of-pocket costs. This would be especially burdensome to those with pre-existing conditions who need regular care.

Overall, the guidance encourages states to consider waivers for less comprehensive coverage that would not meet the needs of those with pre-existing conditions. Because these types of proposals are inconsistent with the text of Section 1332 and the Affordable Care Act, I expect that approval of a waiver that fails to meet the statutory requirements of Section 1332 would face a swift legal challenge.

The Honorable Kathy Castor (D-FL)

1. Please identify the insurance companies that are offering short-term, limited duration plans and in which states they are offering them.

Answer: There is currently no source of comprehensive data on the insurance companies that are offering short-term, limited duration plans and in which states they are offering them. Even state insurance departments have little information about the status of their

current short-term plan markets.² To help address this gap, the National Association of Insurance Commissioners (NAIC) is pursuing a data call on the sale of short-term, limited duration insurance coverage. It is not clear when this data call will be finalized or whether (and the degree to which) the results will be made available to the public.

Although comprehensive data does not exist, I am aware of a number of insurance companies offering this type of coverage, typically in multiple states. These include Golden Rule Insurance Company, National General Accident and Health, and Health Insurance Innovations, Inc. Additional data is available from a study by colleagues at Georgetown University's Center on Health Insurance Reforms that identified insurance companies that are eligible to sell short-term, limited duration plans in 17 states (although not all may be actively doing so at this time).³ Finally, an annual report from the NAIC, released in 2018, identifies the 30 largest companies that offered short-term coverage in 2017.⁴

² Emily Curran et al., "Do States Know the Status of Their Short-Term Health Plan Markets?" *Commonwealth Fund Blog* (Aug. 2018), available at: <https://www.commonwealthfund.org/blog/2018/do-states-know-short-term-health-plan-markets>.

³ Emily Curran et al., "Do States Know the Status of Their Short-Term Health Plan Markets?" *Commonwealth Fund Blog* (Aug. 2018), available at: <https://www.commonwealthfund.org/blog/2018/do-states-know-short-term-health-plan-markets>.

⁴ National Association of Insurance Commissioners, *2017 Accident and Health Policy Experience Report*, at 83 (2018), available at: https://www.naic.org/prod_serv/AHP-LR-18.pdf.