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THE FISCAL YEAR 2020 HHS BUDGET

TUESDAY, MARCH 12, 2019

House of Representatives,

Subcommittee on Health,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 12:01 p.m., in Room 2123, Rayburn House Office Building, Hon. Anna G. Eshoo [chairwoman of the subcommittee] presiding.

Members present: Representatives Eshoo, Engel, Butterfield, Matsui, Castor, Sarbanes, Lujan, Schrader, Kennedy, Cardenas, Welch, Ruiz, Dingell, Kuster, Kelly, Barragan, Blunt Rochester, Rush, Pallone (ex officio), Burgess, Upton, Shimkus, Guthrie, Griffith, Bilirakis, Long, Bucshon, Brooks, Mullin, Hudson, Carter, Gianforte, and Walden (ex officio).

Also present: Representatives DeGette, Schakowsky, and

Tonko.

Staff present: Kevin Barstow, Chief Oversight Counsel; Jacquelyn Bolen, Professional Staff; Jeff Carroll, Staff Director; Luis Domingues, Health Fellow; Waverly Gordon, Deputy Chief Counsel; Tiffany Guarascio, Deputy Staff Director; Megan Howard, FDA Detailee; Zach Kahan, Outreach and Member Service Coordinator; Saha Khaterzai, Professional Staff Member; Chris Knauer, Oversight Staff Director; Una Lee, Senior Health Counsel; Kevin McAloon, Professional Staff Member; Joe Orlando, Staff Assistant; Kaitlyn Peel, Digital Director; Alivia Roberts, Press Assistant; Tim Robinson, Chief Counsel; Samantha Satchell, Professional Staff Member; Andrew Souvall, Director of Communications, Outreach and Member Services; Kimberlee Trzeciak, Senior Health Policy Advisor; Rick Van Buren, Health Counsel; C.J. Young, Press Secretary; Jennifer Barblan, Minority Chief Counsel, O&I; Mike Bloomquist, Minority Staff Director; Adam Buckalew, Minority Director of Coalitions and Deputy Chief Counsel, Health; Jordan Davis, Minority Senior Advisor; Margaret Tucker Fogarty, Minority Staff Assistant; Brittany Havens, Minority Professional Staff, O&I; Peter Kielty, Minority General Counsel; Ryan Long, Minority Deputy Staff Director; James Paluskiewicz, Minority Chief Counsel, Health; Brannon Rains, Minority Staff Assistant; Kristen Shatynski, Minority Professional Staff Member, Health; and Danielle Steele.

Ms. Eshoo. [presiding] The Subcommittee on Health will now come to order.

The chair now recognizes herself for 5 minutes. Actually, I will only use 2, so that we can move things along today.

We welcome the Secretary of Health and Human Services, Alex Azar, to testify on the President's fiscal year 2020 budget.

Good morning, Mr. Secretary.

This is the first time that Secretary Azar is testifying before the Energy and Commerce Committee in the new Congress, and his first stop on the Hill to testify on the President's budget is here. So, thank you for starting with us.

The President's budget certainly reflects the priorities of the administration, but I believe that our national budget should be a statement of our nation's national values, and I don't believe that the budget does that. The Trump administration has taken a hatchet to every part of the health care system, undermining the Affordable Care Act, proposing a fundamentally-restructured Medicaid, and slashing Medicare. This budget proposes to continue that sabotage.

In November, the American people rejected the sabotage of health care that took place, and it is the reason that I am sitting in this chair and that the ratios of this committee and the Congress have changed.

Our subcommittee has worked hard over the past two months

to examine ways to undo the sabotage of the Affordable Care Act and advance legislation that will bring down health care costs for the American people, and we will continue that work.

I hope, Secretary Azar, that you will be willing to be a partner in our work to lower health care costs for the American people, and we welcome your testimony and your presence here today.

The chair now recognizes Dr. Burgess, the ranking member of the subcommittee, for 5 minutes for his opening statement.

Mr. Burgess. Thank you, Chairwoman.

And, Mr. Secretary, good afternoon. Welcome to our humble, little subcommittee. It is a pleasure to have you testifying before us today to hear your views about the fiscal year 2020 budget proposal.

The President's budget provides Congress with an important blueprint for our appropriations process and with the policies that this President and his administration would like to see in the coming fiscal year. As we know, under the Constitution, no money may be spent from the Treasury unless it is appropriated by Congress, and in a perfect world no money would be appropriated unless the expenditure has previously been authorized.

The Energy and Commerce Committee is a principal authorizing committee of the United States House of Representatives. I believe this is a critical task and it is important to get input

from the Department of Health and Human Services when we are authorizing or re-authorizing or reforming programs that are under your control.

While we do hear from the boots on the ground in our districts, it is the agency that both oversees the implementation of these programs and provides funding to ensure that the organizations can carry out the initiatives' goals.

Secretary Azar, thus far, in your tenure as the Secretary of the Department of Health and Human Services, you have proven to be immensely helpful to this committee and its work. You and your team have been responsive to our requests for information and for input, and you have made yourself available to members, so that we can hear about your priorities and your intention to work with Congress on a number of initiatives.

I will say this: of all of the Secretaries of Health and Human Services over the years that I have been in Congress, I have found you to be the most transparent and accessible. And I look forward to continuing to partner with you on your efforts to improve access and quality of health care for Americans.

One issue that I have raised in each hearing in this Congress, and one that I hear consistently from constituents back home, is the cost and complexity of the health care system. North Texans frequently tell me that they can barely afford their insurance premiums, let alone the cost they must pay to seek the

care they need, especially those with high-deductible plans.

Secretary Azar, I know that addressing the cost of health care, and specifically drug prices, has been a priority for the Department under your leadership. I hope this committee, being the one with the primary jurisdiction over these issues, will work with you as we consider ways to solve these issues.

Additionally, as the Energy and Commerce Committee primarily drafted landmark laws, including the 21st Century Cures and last year's opiate effort, the SUPPORT for Communities Act, we should conduct responsible oversight to ensure that the Department of Health and Human Services is implementing these laws in alignment with congressional intent.

It is encouraging to see that the President's budget request seeks to expand treatment and recovery support for individuals suffering from substance use disorders, in addition to enhancing prevention of addiction in the first place. While it is important to stem the tide of addiction, we cannot ignore those who have a legitimate need for pain treatment, including cancer patients, patients with sickle cell anemia, and others. To that effect, the budget requests $500 million to use for the National Institute of Health to partner with private industry to work towards the development of non-addictive pain therapies, in addition to addiction treatments and overdose reversal technologies.

Additionally, I am encouraged to see that the budget proposes

a significant sum of money for childhood cancer therapies and significant money to defeat the HIV/AIDS epidemic. Both efforts are worthy of congressional support.

Another important agency within Health and Human Services, the Office of Refugee Resettlement, is required to provide care for unaccompanied alien children, a task for which your agency was unprepared when this crisis began in 2012, when President Obama signed an Executive Order enacting the Deferred Action for Childhood Arrivals. While conditions and quality of care have improved, the number of illegal border crossings continues to increase. And let me be clear, the Office of Refugee Resettlement does not enforce immigration law. They receive children as a result of other agencies' enforcement activities.

President Trump's budget includes $3.7 billion in fiscal year 2020 for the Unaccompanied Alien Children Program. Congress charged the Office of Refugee Resettlement with the care of unaccompanied alien children. And I hope this committee will support those dedicated HHS and ORR employees as they continue to work with integrity in the face of baseless allegations. If Congress does not want you to undertake that task, Congress should change the law. It is up to you; it is up to us.

Ms. Eshoo. The gentleman's time has expired.

Mr. Burgess. I yield back. Thank you.

Ms. Eshoo. Thank you.

I now would like to recognize the chairman of the full committee, Mr. Pallone, for his opening statement.

The Chairman. Thank you, Madam Chair.

Last year, President Trump and congressional Republicans passed a deficit-busting $2 trillion tax cut for the wealthy and corporations. At that time, we all knew who would take the hit when it came time for the administration to produce a budget. And now, President Trump proposes a sham of a budget that sticks it to the average working Americans across the board.

A budget is a reflection of priorities, and this budget makes clear that ensuring all Americans have access to quality health care is not a priority for this administration. The proposed budget for HHS cuts $1.4 trillion in essential health care programs that are critical to working families and to seniors across the nation. Under President Trump's leadership, HHS has played a major role in policies to sabotage the Affordable Care Act, slash funding for Medicaid, restrict access to women's contraception, and separate families at the border. This is a devastating record for an agency whose mission is to advance the health and well-being of all Americans.

The fiscal year 2020 budget continues to sabotage by reviving the failed Graham-Cassidy ACA repeal proposal, which would lead to tens of millions of Americans losing their health insurance and would undermine protections for people with preexisting

conditions.

The President's budget also continues the administration's assault on the millions of hard-working families that rely on Medicaid for health insurance, proposing $1.5 trillion in cuts to Medicaid. It also continues the administration's illegal efforts to kick vulnerable Americans off Medicaid through work requirements, lockouts, and red tape. This misguided budget also includes over $500 billion in cuts to Medicare, putting health care for our seniors at risk. These are severe and extreme health care cuts for hard-working middle class families, seniors, and our most vulnerable. This is a sham of a budget that has absolutely no chance of ever becoming a reality, but it shows the Trump administration's values, and not the values of everyday Americans.

In addition to explaining the cruel cuts made by this budget, Secretary Azar will need to account for HHS's role in implementing the Trump administration's cruel policy of family separation. This policy has caused so much pain and trauma for thousands of children, and it is clear that children are still wrongly being separated from their parents.

And finally, Secretary Azar will also have to answer for HHS's lack of cooperation with this committee's oversight requests. And I stress this, Mr. Secretary. Over the last two months, this committee has attempted to work with HHS in good

faith in asking for information on a variety of topics from the Affordable Care Act to the administration's family separation policy. We are requesting important information that is critical to our ability to conduct oversight of the Trump administration.

But HHS has been largely unresponsive to our requests, and our patience is wearing thin. If Secretary Azar can't commit to providing us all of the information we have requested, we are prepared to take additional steps to make sure that we get the information that we need to conduct this necessary and long-overdue oversight. And I will get back to that when we get to our questions, Mr. Secretary.

But I do want to thank the chair for having this important budget hearing, and thank the Secretary for appearing here today.

Unless someone else would like some of my time, I am going to yield back. All right, I yield back, Madam Chair.

Ms. Eshoo. We thank the chairman of the full committee.

I now would like to recognize Mr. Walden, the ranking member of the full committee, for his opening statement. Is he here? He is on his way? He is running?

I think that we will recognize --

Mr. Bucshon. I will claim the time on behalf of the chairman at this point.

Ms. Eshoo. Are you going to --

Mr. Bucshon. Yes, the ranking member is on the way. So,

I will start out, if that is okay with the chairwoman.

Ms. Eshoo. Are you making his opening statement? Otherwise, we can just go --

Mr. Bucshon. I am going to make my statement, and then, probably yield some of my time to the ranking member, yes.

Ms. Eshoo. You can proceed.

Mr. Bucshon. Thank you, Secretary Azar, for being here to discuss the President's budget. I think every member of this committee appreciates what you are doing, and I echo the ranking member of the subcommittee's comments that you have been open and accessible to Members of Congress, which is greatly appreciated.

We will look forward to some of the questioning as we go along. I do think that we will have some concerns related to certain areas of the budget, including the National Institutes of Health budget as it relates to health care. As you know, I was a health care provider before.

And I think we will have a good and solid discussion about our issues at our southern border. By the way, I have been there and I believe that the Department of Health and Human Services is doing tremendous work with the situation they have been relegated to address. Hopefully, you will continue to do great work on behalf of all of these people in the area of the humanitarian crisis that is the southern border.

And with that, I yield to Mr. Walden, the ranking member of the full committee.

Mr. Walden. Well, thank you, Doctor. Appreciate it.

To our witness, Mr. Secretary, thanks for being here.

Madam Chair, thanks for having this hearing.

We want to welcome Secretary Azar back to the committee. Thank you.

On a bipartisan basis, this committee has led the way in delivering meaningful health care reforms and policies for the American people. Last year, we worked together to pass into law the SUPPORT for Patients and Communities Act. That was the most comprehensive legislation to address a single drug crisis in our nation's history. That bill gave your agency unprecedented resources and tools to stem the tide of the addiction crisis that is still devastating our communities.

CDC data tell us there were more than 70,000 overdose deaths in 2017, and overdoses take the lives of more Oregonians than traffic accidents. Whenever we pass a major piece of legislation, I really think it is important to dive back in and do oversight to find out what is working, what projects are still ongoing, and what we need to do to do better. So, I would love to hear from you today, Mr. Secretary, on the Department's work to combat addiction and how we can continue to be partners in getting help to those in need.

We also extended and funded a number of important public health programs, including the longest extension of the Children's Health Insurance Program in the history of the program, 10 full years, with recording funding for Community Health Centers, which are both important for my Oregon district and elsewhere across the country. I just met with a the Community Health Center over the weekend in Klamath Falls. There are 12 Community Health Centers, 63 sites, serving 240,000 Oregonians. It is really, really important work.

We also need to continue our work on the cost of health care. I know the administration is looking at the cost of pharmaceutical drugs. From one end of the supply chain to the other, we need to continue that work, So, I appreciate your personal interest in moving aggressively to bring down the cost of prescription drugs for patients.

Last year, the FDA approved a record number of generic drugs, I would say, in part, because of the bipartisan legislation we passed here. It brings more competition to the market. It drives down prices at the pharmacy counter for consumers. But we have more work to do, and I look forward to continuing this committee's partnership with HHS to rein-in excessive costs for health care.

I was also encouraged to see a focus in the President's budget on moving toward value-based care. As a country, we must move

into a health care system that pays for value and quality of care, but those changes will require major shifts in policy and reimbursement. We must work together on those changes to get them right.

The budget also provides new funding dedicated to the President's goal of ending the HIV epidemic. That is certainly a goal I think everyone on this committee can share.

So, in closing, Mr. Secretary, I appreciate your commitment to appear before our committee today, and I look forward to engaging in a thoughtful and meaningful discussion.

If there is anybody else on our side that would like the final minute, I would be happy to yield. Otherwise, Madam Chair, I will yield back to you.

Ms. Eshoo. We thank the gentleman.

I would like to remind all the members that, pursuant to committee rules, all members' written opening statements shall be made part of the record. So now, welcome again, Mr. Secretary, and you have 5 minutes to address our not-so-small subcommittee, but very powerful one. Welcome, and you have your 5 minutes to impart your testimony to us.

STATEMENT OF HON. ALEX AZAR, SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary Azar. Thank you very much. Chairman Pallone, Chairwoman Eshoo, Ranking Members Walden and Burgess, thank you for inviting me here to discuss the President's budget for fiscal year 2020.

It is an honor to have spent the year since I last appeared before this committee leading the Department of Health and Human Services. The men and women of HHS have delivered remarkable results since then, including record new and generic drug approvals, new affordable health insurance options, and signs that the trend in drug overdose deaths is beginning to flatten and decline.

The budget proposes $87.1 billion in FY 2020 discretionary spending for HHS, while moving towards our vision for a health care system that puts American patients first. It is important to note that HHS had the largest discretionary budget of any non-Defense Department in 2018, which means that staying within the caps set by Congress has required difficult choices that I am sure many will find quite hard to countenance.

Today, I want to highlight how the President's budget supports a number of important goals for HHS. First, the budget proposes reforms to help deliver Americans truly

patient-centered, affordable health care. The budget would empower states to create personalized health care options that put you, as the American patient, in control and ensure you are treated like a human being, not a number. Flexibilities in the budget would make this possible while promoting fiscal responsibility and maintaining protections for people with preexisting conditions.

Second, the budget strengthens Medicare to help secure our promise to America's seniors. The budget extends the solvency of the Medicare Trust Fund for eight years, while the program's budget will still grow at a 6.9 percent annual rate.

In three major ways, the budget lowers costs for seniors and tackles special interests that are currently taking advantage of the Medicare program. First, we propose changes to discourage hospitals from acquiring smaller practices just to charge Medicare more. Second, we address overpayments to post-acute providers. Third, we will take on drug companies that are profiting off of seniors and Medicare. Through a historic modernization of Medicare Part D, we will lower seniors' out-of-pocket costs and create incentives for lower list prices. We also protect seniors by transferring funding for graduate medical education and uncompensated care from Medicare to the General Treasury Fund, so all taxpayers, not just our seniors, share these costs.

I also want to acknowledge the work of this committee on lowering out-of-pocket drug costs. Thanks to legislation on pharmacy gag clauses that this committee sent to President Trump's desk, America's pharmacists can now always work with patients to get them the best deal on their medicines. I believe there are many more areas of common ground on drug pricing where we can work together to pass bipartisan legislation to help the American people.

Finally, the budget fully supports HHS's five-point strategy for the opioid epidemic: better access to prevention, treatment, and recovery services; better targeting the availability of overdose-reversing drugs; better data on the epidemic; better research on pain and addiction, and better pain management practices. The budget provides $4.8 billion towards these efforts, including the $1 billion State Opioid Response Program in which we focused on access to medication-assisted treatment, behavioral support, and recovery services.

The budget also invests in other public health priorities, including fighting infectious disease at home and abroad. It proposes $291 million in funding for the first year of President Trump's plan to use the effective treatment and prevention tools we have today to end the HIV epidemic in America by 2030.

Finally, I want to highlight an announcement from HHS today. As we commence a process to identify a new Commissioner of Food

and Drugs as quickly as possible, I am pleased to announce that the current Director of the National Cancer Institute, Dr. Ned Sharpless, will serve as Acting Commissioner for Food and Drugs following the conclusion of Commissioner Gottlieb's incredibly successful tenure at some point in early April. NCI's Deputy Director, Dr. Douglas Lowy, will serve as Acting Director of the Institute while Dr. Sharpless is the Acting Commissioner.

This year's budget will advance American health care. It will help deliver on promises we have made to the American people. I look forward to working with this committee on our shared priorities in the year ahead, and I look forward to your questions today.

Thank you, Madam Chairwoman.

[The prepared statement of Secretary Azar follows:]

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Ms. Eshoo. Thank you, Mr. Secretary.

We will now move to member questions. Each member, of course, will have 5 minutes to question the Secretary. And I will start by recognizing myself for 5 minutes.

Mr. Secretary, the budget proposes to cut funding for premium tax credits which help Americans pay for comprehensive health insurance, but your agency's 1332 waiver guidance supports using federal subsidies to pay for junk insurance plans that don't cover patients when they get sick. The budget also once again revives the failed Graham-Cassidy ACA repeal bill, and the Trump administration has refused to defend, obviously, the ACA in the Texas v. U.S. litigation, urging the court to invalidate the entirety of the ACA's major protections for people with preexisting conditions.

Now, really, I call these items out because they scare the hell out of the American people. These policies have consequences. These words walk into people's lives.

So, where in your budget are those with preexisting conditions protected as well or better than they are protected under the ACA?

Secretary Azar. Well, thank you, Chairwoman, for that question.

Ms. Eshoo. Not really ``thank you," but --

[Laughter.]

Secretary Azar. No, that is a good question to have. It is a good question to have.

Ms. Eshoo. You are a gentleman.

Secretary Azar. And we need to have a debate about this because the position of many is that the Affordable Care Act solved all issues for people with preexisting conditions, and that is simply not the case, as 29 million Americans were priced out of the market with unaffordable care, and those who have access to that care, it may be under-insurance or a card that doesn't really provide for them.

Ms. Eshoo. So, will you work with us to strengthen that?

Secretary Azar. Well, we want to work -- actually, that is our proposal. It is a starting point.

Ms. Eshoo. On preexisting conditions?

Secretary Azar. It is the $1.2 trillion grant program.

Ms. Eshoo. We will hold you to that. We will hold you to that.

Now, on the actual numbers, $1.4 trillion over 10 years for Medicaid, close to $460 billion from Medicare. How do you reassure the American people that what they count on, what is really necessary in their lives, Medicare beneficiaries, Medicaid beneficiaries, that these numbers, what these numbers are going to do to them? These are massive cuts.

Secretary Azar. So, on Medicare, we are actually putting

it on a sounder footing for the future, and these are provider cuts. Providers aren't going to be happy. Hospitals are not happy. The post-acute providers are not happy, and the drug companies are not happy.

Ms. Eshoo. Well, how does that affect the beneficiaries?

Secretary Azar. It actually reduces their cost-sharing because they actually pay a percent often of what we reimburse these providers. So, as we end that abuse or minimize that abuse, their sharing goes down and we save taxpayers money.

Ms. Eshoo. But why wouldn't providers lessen their coverage to the people that are enrolled with them, if you are going to take almost $460 billion out of it?

Secretary Azar. Well, some of these are --

Ms. Eshoo. Are we going to depend on the goodness of their hearts?

Secretary Azar. Well, a lot of them need to be in Medicare. Your hospital is not going to be in existence long if it is not a Medicare provider. What is happening is, for instance, hospitals are gobbling up doctors' practices --

Ms. Eshoo. Well, what about the patients --

Secretary Azar. -- and jacking up the rates.

Ms. Eshoo. -- the coverage for Medicare enrollees?

Secretary Azar. I do not believe any of those three which are the major areas of reduction will impact in any way patient

access to services there. I think these areas, like MedPAC --

Ms. Eshoo. So, you are stating that almost $460 billion, reducing that out of Medicare is not going to affect any beneficiary?

Secretary Azar. I don't believe it should affect. I think it should reduce their out-of-pocket through their cost-sharing. These are abuses that MedPAC and others --

Ms. Eshoo. I want to go back to the junk plans. They are receiving federal subsidies, and they are required to disclose to an individual that the plan will not cover their medical bills when they get sick. How does this strengthen coverage for people across the country?

Secretary Azar. So, short-term, limited-duration plans are meant for people in a transition period. They are not right for everybody. And we actually enhanced the consumer disclosures from what the Obama administration had on them.

Secretary Azar. So, we are going to enhance disclosure? I am all for that. In fact, I offered legislation that would state to people on the cover of the policy, ``Be advised you are not covered for the following." So, I think it needs a ``beware" stamp on it.

But my time has expired, and I will now recognize -- who am I recognizing now? -- the ranking member of the subcommittee, Dr. Burgess, for 5 minutes.

Mr. Burgess. Thank you for the recognition.

Mr. Secretary, again, thank you for being here today.

Sometimes I feel like I am trapped in a Charles Dickens novel. It is the best of times; it is the worst of times.

So, just briefly, can you kind of give us a sense of what it has meant for 2.5 to 5 million people to have been brought back into the workforce, and now, perhaps have the availability of employer-sponsored insurance?

Secretary Azar. With the booming economy and with the historic low unemployment rates, we have got individuals who now are not only having the pride and the long-term sustainability of job, but have access to health care through their employers. But, of course, we have our safety nets. We have our programs like Medicaid. We have, as long as it is on the books, we have the Affordable Care Act and the subsidy program there. But what we are trying to do is expand the reach of available options and affordable insurance and coverage and access to care for the people who were shut out from that marketplace.

Mr. Burgess. And I appreciate what you are trying to do. I actually have a question I will do for the record on just that issue.

This past Sunday night, ``60 Minutes," a television program that I don't normally watch, aired a special on the research that the National Institute of Health has conducted on sickle cell

disease. I worked with patients with sickle cell disease back in my residency at Parkland Hospital. I know what a devastating and painful illness that it is.

We heard in this committee two Congresses ago how there had not been a new FDA-approved treatment for sickle cell in almost 40 years. In the last Congress, we approved, and got signed into law, the first major sickle cell legislation, Danny Davis' bill from Illinois, and the President signed it into law.

Can you talk just a little bit about what the American people saw on Sunday night as far as the potential treatment for sickle cell?

Secretary Azar. What an incredible story that was. And I have talked to Francis Collins, our incredible Director of the NIH. I think we all believe we could be within five years of an actual cure for sickle cell anemia, an actual cure. And it is using the modern techniques we have of both identifying the defective genes that cause the disease, but different vectors, whether it is CRISPR or, in the case of the sickle cell treatment you saw on ``60 Minutes," using a viral vector to actually just change the body's wiring. I mean, to see that young girl and the impact it has had on her life, it is a miracle and we are all so excited about that. We want to keep doing that across the work of NIH.

Mr. Burgess. Well, again, for somebody who has taken care

of sickle patients in crisis, we haven't had much to offer, and this is, indeed, groundbreaking research. You and your team are to be commended, and the administration, for putting their efforts behind this.

So, as you know, I have, since the passage of a bill that got rid of the sustainable growth rate formula -- we used to fight about that every December; now we don't. And I believe this committee is still committed to the development of alternative payment models.

The physician-led technical advisory panel of PTAC -- I think they had a meeting this week -- they have recommended over a dozen models, and physicians are just clamoring to join. I understand there is concern over the scalability of some of these models, but can we agree that this is a sign, a good sign, that APM providers want to participate and want to take place?

Secretary Azar. Absolutely. And, in fact, I know there have been some rough spots in the interactions with the PTAC and HHS. We have met with leadership and the whole committee. We have shared, actually, the alignment of our philosophies around where we want to go on value-based transformation. I think we are going to see that the projects that they review will help align there. We have emphasized how important it is that these projects be scalable across the program. So, I am actually quite optimistic about our work with PTAC. It is an incredible group

of people on that committee, and we want to make sure we are getting the full advantage of their work and insight.

Mr. Burgess. And would you agree that that was particularly visionary legislation that was passed by this Congress?

Secretary Azar. Absolutely.

Mr. Burgess. Thank you. I knew I could count on you.

Well, thanks for your comments about Dr. Gottlieb. Again, what a leader he has been. And I appreciate your sharing with us that the agency is going to remain under capable hands. It is just so critically important. The generic throughput that has occurred under Dr. Gottlieb's leadership is going to make a big difference for patients and their pocketbooks. And your commitment is to continue that?

Secretary Azar. Oh, absolutely, we are going to be carrying forward Commissioner Gottlieb's vision without him. His agenda is my agenda; my agenda is his agenda.

Mr. Burgess. Very good. Again, we appreciate you being here today. Thank you.

Ms. Eshoo. I thank the gentleman. I now would like to recognize the chairman of the full committee, Mr. Pallone, for 5 minutes of questioning.

The Chairman. Thank you, Madam Chair.

Mr. Secretary, on June 7th of last year, the administration declined to defend the ACA's protections for preexisting

conditions. In this extraordinary decision, the Department of Justice sided with a group of Republican attorney generals seeking to strike down the ACA and declined to defend the constitutionality of the guaranteed issue and community rating provisions of the ACA. And let me be crystal clear. In declining to defend these protections in the Texas v. U.S. lawsuit, the Trump administration is seeking to, once again, subject tens of millions of Americans with preexisting conditions to the discrimination they faced before the ACA, and I think it is appalling and indefensible.

Now my questions are about documents. So, I just want you to answer these questions yes or no about documents. That is what I am asking, not about policy here.

On June 13, 2018, I sent you a letter regarding the Department of Health and Human Services' involvement in the DOJ's decision and requesting documents, communications, and responses to a series of questions. I was trying to find out whether the Department had conducted any analysis on the effects of eliminating these protections on costs and access to coverage, particularly for individuals with preexisting conditions. And I asked about the Department's contingency planning if the Trump administration prevails in this Texas lawsuit. And yes or no, did you receive this letter I am referring to?

Secretary Azar. I am sure we did. I don't recall the

letter, but I am sure we did.

The Chairman. Thank you.

On December 7, 2018, a few months later, I sent you and Administrator Verma a followup letter reiterating my request. I requested a complete response to my letter, to my previous letter. Again, yes or no, did you receive this letter, to your knowledge?

Secretary Azar. Again, I am certain that we did.

The Chairman. Okay. So, Secretary, my staff subsequently reached out to your staff on December 21st, January 2nd, January 11th, January 3rd, February 24th, February 26th, February 28th, March 3rd, March 7th, March 8th, up to now, and yesterday, to check on the status of the Department's document production. On each of those occasions, my staff has made clear that this inquiry regarding the Department's involvement in the Texas lawsuit is the No. 1 investigative priority for our committee, for our oversight. And it has been over nine months, and I still haven't received a response to my letter or a single document. So, my question is, has the Department even begun a search of your records, and the records of others on your staff, in response to these letters, which, again, is how you responded to whether the DOJ is moving forward?

Secretary Azar. So, I apologize for the delay. I do want you to know that I met with our team, I think it was, in fact,

just yesterday, and discussed our compliance with your requests there. And I hope they have communicated to Chairwoman DeGette's team. I believe they did yesterday or this morning. We are going to try to get as much of that material over as quickly as possible as we can around contingency planning and analysis.

The Chairman. Well, would you commit to providing those documents to this committee by the end of the week?

Secretary Azar. I don't know about the date on it, but we have already met with, we have talked to the staff, I was told, and I was told the staff were happy with the discussion and will be producing that on a rolling basis of reviewing the material.

The Chairman. Well, look, let me --

Secretary Azar. I have told them I want to give you as much as we can on that.

The Chairman. Let me explain. I am not asking about the CMS records, although those can be sent as well. I am asking about your own records. Will you commit to making your records available to search and assure that the Department turns such records responsive over to the committee? I am not talking about CMS, but correspondence between -- your own records, if you will, relative to this Texas --

Secretary Azar. Well, obviously, materials that would involve potential executive privilege would have to be reviewed by interagency and the White House for review of that. But I

have told my team I want to get whatever we can that doesn't implicate those types of concerns that we would have to work together on respective and reasonable accommodations; I want to get you materials that we can as quickly as possible.

The Chairman. I just want a commitment to make your records available to ensure that the Department turns these documents over to the committee as soon as possible.

Secretary Azar. We will commit to be as responsive as we can, but I, obviously, can't waive various privileges of the President, if they are implicated.

The Chairman. Okay. Now I just have one more question, Madam Chair.

I am just concerned -- again, I have explained. Nine months, no documents, no response. I just hope that this level of non-cooperation doesn't continue moving forward with this Congress on these committees' informational requests. Because if not, we have to see what additional steps to ensure that the committee actually has legitimate oversight. So, I mean, do you want to just respond? This level of cooperation is really not acceptable. Is this going to continue where we don't get anything or any response for nine months?

Secretary Azar. I want you to know, I respect your role and this committee's role, and we have beefed up our oversight staffing. We have tried to build the teams, and we will hope

to have a better relationship in the future going forward on any oversight issues.

The Chairman. All right.

Secretary Azar. We want to have a good, constructive, productive relationship with you and this committee.

The Chairman. Well, I appreciate that, and I hope so. And we will continue to monitor it.

Thank you, Madam Chair.

Ms. Eshoo. Thank you, Mr. Chairman.

And we will just count on you getting the information to us.

And now, I would like to recognize the ranking member of the full committee, my friend, Mr. Walden, for 5 minutes.

Mr. Walden. Thank you, Madam Chair. And again, thanks for holding this important hearing.

Secretary Azar, I understand that 2018 marked the highest number of combined generic drug approvals and tentative approvals in the history of the Food and Drug Administration's Generic Drug Program. Can you just briefly speak to the savings that created for the American people?

Secretary Azar. Well, this is thanks to the historic work of Commissioner Gottlieb and the team at FDA. It has just been incredible. They have shattered monthly and yearly generic drug approval records since 2017, approving generics that CEA has

estimated have saved Americans since January of 2017 $26 billion.

Mr. Walden. Twenty-six billion dollars?

Secretary Azar. And I believe that is only through June of 2018 on that analysis. So, that is on a rolling -- that is going to keep on adding savings to the American people.

Mr. Walden. That is really impressive. And I think part of that is the new tools that this committee and this Congress, in a bipartisan way, gave to your agency and certainly the FDA.

By the way, I would just say I am really saddened that Dr. Gottlieb is leaving. I wish him godspeed and good health and every success in the world. He has been a fantastic FDA Director, and, frankly, Madam Chair, very cooperative, I think on both sides of aisle. I think he was up here four days in a row once testifying and participating. Sorry, but it was really helpful to our cause.

Mr. Secretary, CMS has proposed a rule to change the formularies for patients in Part D protected classes. What assurances can you provide my constituents and those patients that they will still be able to get access to the medications they need?

Secretary Azar. Yes, thank you for that question, because there is a lot of misunderstanding there.

Of course, with the protected classes, what is happening is, we have, as a government, disabled these middlemen, the pharmacy benefit managers, from being able to negotiate against

the drug companies to get discounts. So, for the very drugs that in the commercial space may be yielding 30 percent average discounts, we are getting zero to 6 percent.

So, what we are proposing -- and it is a proposal, and we are getting very important feedback from disease groups in, and we will look at that.

Mr. Walden. Right.

Secretary Azar. It is to allow some of the basic formulary management tools used in the commercial space for regular commercial employees. For instance, step therapy, try this drug before that drug.

Mr. Walden. Right.

Secretary Azar. Or prior authorization, make sure that this drug is actually being used for the right indication, with our speedy appeals and exceptions processes, and with the choice that is embedded into Part D, where you can pick a plan; if it is not meeting your needs, you can choose a different one.

But we are hearing the feedback, and we have heard very vigorously back.

Mr. Walden. Yes.

Secretary Azar. We want to protect our beneficiaries, of course.

Mr. Walden. Because I have heard from some patients today, before this becomes a rule, on step therapy, that they have a

drug that works. They change plans or something. Something happens, and they are told they have to go back through all these drugs they know don't work to get to the one that does. And no patient wants to go through that. And so, it is something we have got to pay attention to.

Secretary Azar. I have heard that feedback, and obviously, we will take that very seriously.

Mr. Walden. Yes, I think that is really, really important.

Mr. Secretary, currently, over one-third of beneficiaries are choosing a Medicare Advantage Plan. And I know how important that is to Medicare beneficiaries, especially my colleague here to the left who has become one now. Can you detail why seniors are increasingly choosing private insurance options for their Medicare coverage?

Secretary Azar. Well, you know, the Medicare Advantage Plans have become so popular. I think it is because so many of us as we age into Medicare -- forgive me --

Mr. Walden. Right.

Secretary Azar. -- we are used to having an integrated benefit package. We are used to having medical and drug benefits all together rather than those being managed separately. And so, it is a very convenient form, and it allows us, also, with Medicare Advantage, we can add supplemental benefits. The plans, we have actually authorized new supplemental benefits that these

MA plans can offer people.

Mr. Walden. And what would those look like, just quickly?

Secretary Azar. Oh, that could be lower cost-sharing. I mean, you have Medicare Advantage Plans, for instance, that have zero dollar generic drug coverage in them. I mean, some of them are just incredible, the opportunities they offer people.

Mr. Walden. So, under H.R. 1384, known as Medicare for All, my understanding is private health insurance would be eliminated. So, the 158 million Americans who get their health insurance through employer or union would lose those policies, but also -- and something that has not been written much about -- my understanding is the Medicare for All Democrats' plan would also eliminate Medicare Advantage Plans. What would happen to those 20 million seniors?

Secretary Azar. I believe that is the case under at least that plan. They would lose their Medicare Advantage Plan, and they would have to go to what is called Medicare Fee-for-Service, which has very high deductibles, very high cost-sharing. Now, for the wealthier people, you can buy a very expensive Medigap policy to cover some of that. I do not recall if that particular Medicare for All plan outlaws those Medigap plans or not. Being private insurance, it might. I am not sure.

Mr. Walden. So, seniors would lose their Medicare Advantage Plans under that legislation?

Secretary Azar. I believe that to be the case. They are private plans.

Mr. Walden. All right. Thank you, Madam Chair. My time has expired. I yield back.

Ms. Eshoo. I thank the gentleman. I now would like to recognize a real gentleman, Mr. Butterfield, for 5 minutes.

Mr. Butterfield. Thank you. I was about to say, Madam Chairman, Mr. Engel has stepped out for a few minutes. But thank you for --

Ms. Eshoo. To your advantage.

Mr. Butterfield. Thank you for the compliment.

And thank you, Mr. Secretary, for your testimony here today.

I started reading the President's budget very early this morning. It is not a very thick budget as compared to other Presidential budgets. But I started reading it this morning, and this is the first section that I went to. It appears to me that the President's budget would rip some $1.4-1.5 trillion out of Medicaid by turning it into a block grant or a per-capita program.

And, Madam Chair, if that weren't bad enough, the news organizations this morning are reporting that the administration has plans to bypass Congress entirely and issue guidance that will allow states to block grant or cap Medicaid. Now if you think the emergency declaration Executive Order that the

President announced a few weeks ago to bypass Congress has created a firestorm, you just wait for the firestorm that this will create.

One in five Americans, low-income Americans, depend on Medicaid. The President's budget doesn't represent the values of the American people. And so, this Medicaid play was one of the main features of the Republicans' failed attempt to repeal the ACA. Block-granting and capping Medicaid would endanger access to care for some of the most vulnerable people in the program, including children, children with complex medical needs, and our seniors, and individuals with disabilities.

In September 2017, Avalere Health, a well-known consulting firm, found that the Republican block grant proposal would cut federal spending on Medicaid by $4 trillion over the new two decades.

Mr. Secretary, Congress has already rejected attempts to block grant Medicaid. So, it is deeply troubling to see this administration double down. I will remind you, sir, that under federal law, you only have the authority to allow demonstration projects. You know it and I know it. You only have the authority to allow demonstration projects that are likely to assist in promoting the objectives of the Medicaid program.

And so, I am asking you, sir, on the record today, do you believe, does the administration believe that you have the authority to block grant Medicaid on your own without the

participation of Congress?

Secretary Azar. So, states are able to propose waivers or demonstration projects, as you have described them, to reorient their benefits. And any state could come in requesting, for instance, an approach that might be what you describe as a block grant or capitated amount or different payment structures. If we get that kind of proposal, we have to assess that with our legal counsel and with OMB to --

Mr. Butterfield. It appears you are going to be aggressive with this, aggressive with block-granting Medicaid and rolling it out.

Secretary Azar. Absent statute, we can't force a state to do anything like that in Medicaid. That would have to be a governor and legislature coming to us, asking us if that is something that --

Mr. Butterfield. Let me put it to you this way: can you guarantee this committee that capping Medicaid spending through a block grant will not cause any individuals to lose their health coverage or lose their benefits, or lose access to their doctors or jeopardize their care? Can you make that commitment to us?

Secretary Azar. Well, you couldn't make that commitment about any type of waiver or demonstration in Medicaid because that is precisely the types of changes that are made --

Mr. Butterfield. So, it is conceivable? If a state came

and asked for a waiver, it is conceivable that some of the beneficiaries could experience less care?

Secretary Azar. That would be, that could be the case with any waiver that is already out there. We operate, my goodness, it must be hundreds of waivers already. And each of those has an impact that is redistributive among this beneficiary or that, or this class. It is ways of states prioritizing and focusing the benefits and the money that they have --

Mr. Butterfield. I see the direction that you are going with this, and I don't like it. But you answer to the President, and the President has a notion of taking Medicaid in the wrong direction.

The cap of Medicaid that the administration is proposing will only grow at the rate of inflation. That is what I am being told. Do you believe that the rate of inflation will keep pace with the rising cost of health care? Are they going to go up equally, do you believe?

Secretary Azar. I think that is in the legislative proposal, which, of course, Congress would have to agree to. You would have to agree to that. And if that were the case, no, that would be regular CPI I believe is in the budget. I don't believe it is a CPI medical expense. And that is part of the savings that come from the ongoing -- I think it is $300-and-some billion that would be part of the ongoing savings from those types

of changes to per-capital or block grant options in this case.

Mr. Butterfield. Thank you, Mr. Secretary. I only have 14 seconds remaining. And I will say, as I close, that if this administration is serious about block-granting or otherwise readjusting and redefining Medicaid as we know it, we are going to be in for a real serious firestorm, not just from the Congress, but from the American people. So many people, low-income folk, depend on Medicaid.

Thank you, Madam Chair. I yield back.

Ms. Eshoo. I thank the gentleman. I now would like to recognize the former chairman of the full committee, Mr. Upton of Michigan.

Mr. Upton. Well, thank you, Madam Chair.

And welcome, Mr. Secretary, back. We are pleased that you are here.

And I wonder, as you know and you watch very carefully, every member of this committee supported 21st Century Cures a couple of years ago. Could you briefly give us an update as to how you think things are going three years now since President Obama signed it into law? Because I have a number of questions.

Secretary Azar. Let me just be short about it. I believe it is directly attributable, and credit to you and this committee for the Cures Act, that we have had the record number of new drug approvals and the record number of generic drug approvals in our

system that are leading to such significant savings for the system, for the American people, and frankly, leading to the type of cures like what I hope we are going to see on sickle cell, that the ranking member mentioned before.

Mr. Upton. That is good. And I missed that show on ``60 Minutes," but I am well aware of the progress that we are making on that and other fronts as well.

Somewhat good news and bad news, it is my understanding that the childhood cancer funds in NCI, you have a nice increase for that in the proposal. But I must say that I was alarmed to read a Politico story just in the last couple of days that said, under the plan, the budget plan, the White House proposes an $897 million cut to the NCI, plus more than a billion dollars to institutes that do medical research. Is that story accurate?

Secretary Azar. Well, it is. That is in the budget as the across-the-board reduction to NIH. We are one of the biggest, if not the biggest, non-Defense discretionary budgets. We take a 12 percent in the President's budget. At HHS, that is $12 billion. It is a proportionate cute at HHS that is proposed. I understand the pain. I understand the concern there. And the NCI cut would be proportionate to the NIH one. I believe it is a 12 percent there also.

Mr. Upton. One of the things that we did in Cures was that, when we saw increases, particularly in the NIH budget and FDA

budget, we actually came up with offsets to make sure that those increases would come about. Are those offsets still in place? I mean, are these reductions --

Secretary Azar. So, we tried to prioritize certain funding within NIH around the opioid funding; of course, the Pediatric Cancer Initiative of the $500-million-over-10 package. And so, yes, there are certain priority areas that we have tried to wall off within that, but, overall, the budget does take that kind of proportional charge because, otherwise, there is just not enough money at HHS to go around to make that kind of a target.

Mr. Upton. Now a number of us from the House and the Senate this last week participated in a pretty big opioid conference. What is the level of funding, as we try to help the states deal with this crisis that is impacting virtually every community and so many families that we personally know?

Secretary Azar. The President keeps the opioid funding that this Congress has prioritized last year and that we worked together on. We are going to continue to strengthen our access to treatment and recovery. So, that is $2.9 billion. That is an increase of 68 above what our FY19 allotment was across the Department. That is your State Opioid Response Grants, for instance, of $1.5 billion.

Mr. Upton. We started that in Cures.

Secretary Azar. And the STR, and that expanded with the

state opioid responses in last year's appropriation. Fifty-eight million dollars for infectious disease and opioids, a critical part, also, in our HIV and hep c work, the spread of those diseases caused through the opioid crisis; prioritizing surveillance activities. So, really, a continuation of the great bipartisan work of Congress and the administration on the opioid crisis from last year is what is presented in the budget this year. I could give you details offline, if that is helpful.

Mr. Upton. So, the last question I have is, last week, a letter was sent up to reprogram monies for the Office of Refugee Resettlement. They found offsets for that increase. And I am interested to know, what is the fiscal year '20 budget request compared to the fiscal year '19 request? And is there a chance, then, that you will ask for additional monies to be reprogrammed again, following what happened last week for fiscal year '19?

Secretary Azar. Thank you for that.

So, in FY19, I believe the budget request was $1 billion plus a $200 million contingency fund. And then, the appropriators also put some money into the regular non-UAC refugee program, knowing that usually doesn't spend that much money.

For this budget request, what we have requested is actually $1.3 billion as an appropriation, and then, to create a $2 billion mandatory fund that is a contingency fund with an assumption of $700-or-so million used in this year, plus transfer authority

of up to 20 percent, which would be $361 million. So, we have requested quite a lot, but at the rate that we are going with the kids coming across the border, it is just an incredible burden financially.

Mr. Upton. Thank you. My time has expired. Thank you, Mr. Secretary.

Ms. Eshoo. We thank the gentleman. Now I have the pleasure of recognizing the gentlewoman from California, Ms. Matsui, for 5 minutes.

Ms. Matsui. Thank you, Madam Chair.

And thank you, Mr. Secretary, for appearing before us today.

I have to say I am extremely concerned by the priorities reflected in the President's budget, because this proposal directly and negatively impacts hardworking families who depend on crucial services. It guts Medicaid by over a trillion dollars. These cuts mean working single mothers in between jobs, families with a family member who suffers from addiction, and grandparents in long-term care facilities will have less access to care.

I am disappointed that HHS, which has a mission to enhance and protect the health and well-being of all Americans, has presented a budget that targets the most vulnerable in our communities -- women, children, people with disabilities and mental illness, and the LGBT community. I certainly hope that in our conversation today we can address the failings in HHS's

budget vision and how the agency should, in fact, be working to protect all Americans.

Now, Mr. Azar, you previously stated that one of your top goals as Secretary is to address the opioids crisis, and this committee shares that goal. Passing H.R. 6, the SUPPORT for Patients and Communities Act, was a highlight of last Congress. And I was pleased to see members of this committee and your administration begin to take meaningful steps toward tackling the opioid epidemic.

Yet, I am concerned that your proposed budget, while it does include funding and investments for the Community Mental Health Services Block Grant and for Certified Community Behavioral Health Centers, it is accompanied by massive cuts to Medicaid, which is a vital source of coverage for mental health and substance use disorder treatment.

The President's 2020 budget proposes to cut Medicaid by $1.5 trillion over 10 years and turning the vital program into a block grant to the states. Yet, shoring up Medicaid and strengthening that program is perhaps the single best thing we can do to expand access to mental health and substance use treatment services.

As I am sure you know, Medicaid is the single most important financing source of mental health services in this country. Medicaid covers approximately a quarter of all adults with serious mental illness. The Medicaid program covers many inpatient and

outpatient mental health services, such as psychiatric treatment, counseling, and prescription medications. And Medicaid coverage of mental health services is often more comprehensive than private insurance coverage. Medicaid also covers 4 in 10 non-elderly adults with opioid addiction, and those with Medicaid coverage are twice as likely as those with private insurance or no insurance to receive substance use treatment.

Your rhetoric on mental health and addiction is not matched by your actions. Cutting the very insurance coverage that treats these people for ideological reasons, the coverage that provides critical mental health services and substance use treatment, will not help us address these critical issues.

Secretary Azar, do you agree that Medicaid is a critical tool in helping individuals with mental health conditions or substance use disorders? I just want a yes or no.

Secretary Azar. Yes, we do believe Medicaid is important for those individuals.

Ms. Matsui. Okay. Secretary Azar, will you commit to not taking any further action in this administration, as your predecessor and CMS Administrator already have, that would negatively impact the coverage that people with mental health or substance use disorders rely upon?

Secretary Azar. Well, we actually, with our budget, are proposing changes that I think refocuses on the key core

populations of Medicaid as opposed to just providing insurance to able-bodied potentially-working adults. So, I actually thinks the budget lets us focus on these people with substance use disorder and mental illness, the disabled, those that really need it, instead the perverse incentives that we have got right now.

Ms. Matsui. Well, I don't agree with you there. I also believe, too, that it is very difficult to get mental health services, and the population that needs them are certainly ones that don't game the system. They really are people who really need the services. And mental health and substance use services are so critical, and Medicaid is the means by which most of the population receives these services.

Secretary Azar. If I could just point you to one thing in the budget that I hope you will support. It is we propose extending Medicaid for postpartum pregnant women for up to one year who have suffered from substance use disorder. So, I do hope we could advance that.

Ms. Matsui. That is really wonderful, but I am still talking about the vast population that needs the Medicaid services for mental health services.

And let me just say this: that I want to reiterate the concerns of Ranking Member Walden regarding the protected classes. I have gotten many of my constituents coming forward

and saying that they are really very concerned regarding the step therapy. They have medication that they already know works, and to think that they have to go back again and go through the steps, that would really bring them back to a place they don't want to be.

And I have run out of time already. So, I just want to make that point. Thank you.

Ms. Eshoo. You yield back. I thank the gentlewoman.

I think the issue that Ms. Matsui just mentioned, and Mr. Walden, and I think both sides hold the same view. So, we need to move forward and correct that situation.

I now would like to recognize my friend from Illinois, the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. Shimkus. Thank you, Chairman Eshoo.

Secretary Azar, thanks for being here.

Chairman Eshoo and I cosponsored a bill last Congress called the REVAMP Act. We have worked to address antibiotic drug resistance for over a decade with colleagues on both sides of the aisle. We have secured some wins, not the least of which is the GAIN Act.

Mr. Secretary, can you tell me what your administration is doing to address this concern?

Secretary Azar. Yes. So, we actually announced what we called the AMR Challenge in September of last year at the United

Nations General Assembly, which is a CDC Foundation initiative where we received commitments from, I think, over a hundred NGOs and private sector entities to commit around appropriate utilization.

I am focused right now around AMR on what I view as a potential market failure issue there on antimicrobial resistance developing next-generation antibiotics, because here is the problem we have: we want new antibiotics, but, for AMR purposes, we need them not to be used. So that it almost presents a project bioshield-like scenario where we, as the government, need to actually think about our role there as a purchaser to get developed and park antibiotics that are needed. That is the issue.

Mr. Shimkus. I appreciate the way you finished up that, because what we always hear quite a bit is: how do you incentivize the private sector to produce a product that you hope they don't use? And that is kind of what we have been trying to deal with here.

I wasn't here for Dr. Burgess' questioning, but he talked about alternative payment methods. I am a big fan of Medicare Advantage Plans. I understand the move and some discussions in some areas about Medicare for All. But how can using alternative payment methods affect quality and cost in the Medicare Advantage world?

Secretary Azar. So, I actually think we have been often

thinking about things the wrong way when we think about, for instance, the Centers for Medicare and Medicaid innovation and our demonstration authorities. We tend to think of Fee-for-Service, the traditional Medicare, as where we need to innovate, and then, Medicare Advantage would just follow. Well, the competitive structures with Medicare Advantage and their customer responsiveness, and frankly, their ability to run plans -- these are insurance companies; it is what they do. They know how to run insurance and integrated benefits and deliver outcomes that are quality outcomes.

I have been trying to change our mentality to think about MA as more of the leading edge of innovation, and perhaps Fee-for-Service is a fast follower there.

Mr. Shimkus. Yes, let me follow up with that. What about waivers to the Stark and Anti-Kick Statutes? Do you see that addressing it in that space might be helpful?

Secretary Azar. Yes. So, we actually have -- it is called the Regulatory Sprint, which is an effort that our Deputy Secretary has been leading, looking at how the Anti-Kickback Statute interpretations and Stark laws could be barriers to integration, collaboration, and coordination. Because to get the kind of outcomes we want to pay for value, we have to stop paying just each individual provider in a procedure-based rifle shot and pay together, and have them work together, but we have

the laws that say don't work together.

So, we have to look at it. We have to protect against fraud. We have to protect against abuse. But we have got to open up and make sure we allow that collaboration outside of common ownership structures.

Mr. Shimkus. Thank you.

When we knew about the hearing, we opened up to our social media for people to maybe direct a question or two to you. And Melody Tucker from Charleston, she actually submitted a whole bunch, like 30 of them. So, I am not going to go through them all; we don't have time to do that. But one of the questions she had was -- I am just going to read it the way she sent it -- ``Will salaries of health care providers, including physicians and professional/paraprofessional staff, be determined by the government?" And she is in the reference to the Medicare for All debate. Would you see that as -- and she goes on with saying, ``If so, how is Medicare for All not socialized medicine?"

Secretary Azar. Well, I think there is a real risk with Medicare for All that it become, depending on the plan, that it become a single-payer system. And if it is a single-payer system, one eventually may want to move maybe to actually own the providers that are under that, as we see with other countries' socialist systems around health care. And so, yes, that would end up with a system where we would, Congress or HHS would set salaries for

providers. I hope we don't ever get to that point, but I do think that is a risk of single-payer systems. We have seen it in other countries.

Mr. Shimkus. I appreciate that.

Madam Chairman, my time has expired. I will just yield back.

Ms. Eshoo. I thank the gentleman. I now have the pleasure of recognizing the gentlewoman from Florida, Ms. Castor.

Ms. Castor. Thank you, Madam Chair.

And thank you, Secretary Azar, for appearing before us today on the Trump budget.

After reviewing the Trump budget, I know my neighbors back home in Florida would want me to ask you, why does the administration continue to undermine the law that protects them from discrimination by insurance companies for preexisting conditions? And they would want me to ask you, why does the administration continue to saddle families with higher health care costs, copayments, and premiums? And let's get into the specifics here.

Your Department finalized a rule to expand short-term, limitation-duration health plans. These junk plans are not required to comply with the comprehensive consumer protections of the Affordable Care Act. Junk plans undermine protections for people with preexisting conditions. They increase costs. They leave American families with fewer financial protections

and expose them to fraud.

So, yes or no, are you aware, and did you consider in rulemaking, that these junk plans discriminate against Americans with preexisting conditions?

Secretary Azar. The short-term, limited-duration plans do not have to comply with the Affordable Care Act's full requirements, and we need to be sure people understand that.

Ms. Castor. I will take that as, yes, you were aware?

Secretary Azar. Some plans may and I believe are covering preexisting conditions; some are not. And that needs to be fully disclosed.

Ms. Castor. Did you know, are you aware that -- so, you are aware that these plans can exclude coverage for preexisting conditions or decline to offer coverage to individuals with preexisting conditions? Yes or no?

Secretary Azar. That is correct.

Ms. Castor. Yes.

Secretary Azar. That is correct. And that is why people need to be fully aware of that, if they go into buying them.

Ms. Castor. No, I think what should happen is that we should adhere to the law of the land, that we do allow discrimination against our neighbors with preexisting health conditions. That is what the law says.

Secretary Azar. If that was the law of the land, then

President Obama violated during his entire Presidency.

Ms. Castor. Secretary Azar, yes or no, are you aware, and did you consider in rulemaking, that these junk plans exclude coverage for basic health care services, such as hospitalization, treatment for substance use disorders, or prescription drugs? Yes or no?

Secretary Azar. Short-term, limited-duration plans may exclude coverage.

Ms. Castor. So, yes?

Secretary Azar. That is exactly why they can be more affordable options for some people.

Ms. Castor. So, the Department also concluded that expanding junk plans will, and I quote, ``increase premiums and cause an increase in the number of individuals who are uninsured. Other nonpartisan estimates, including the CBO, have also projected that expanding junk plans will increase premiums." So, yes or no, are you aware, and did you consider in rulemaking, that expanding junk plans will lead to higher premiums in the individual market?

Secretary Azar. Did consider that. The CMS actuary had some analysis around that. But, given that we now pay for the insurance for everybody in the individual market -- we are subsidizing, I think, over 87 percent of people's premium acquisition -- nobody should be leaving subsidized insurance to

buy one of these plans. If we are buying you a full insurance package, I don't know why you would leave and buy a short-term, limited-duration plan out of your own pocket.

Ms. Castor. Well --

Secretary Azar. It doesn't make any sense to me, but --

Ms. Castor. Let me say, the CBO was very clear on this. They projected premiums will increase by at least 3 percent due to your junk plan rule. And other studies, including one of out of the Urban Institute, they have projected higher premium increases across the board as well.

Secretary Azar. Well, the rule --

Ms. Castor. You are going in the wrong direction.

Secretary Azar. Well --

Ms. Castor. Families need relief. And what is happening is you have sabotaged -- allowing these junk plans is hurting everybody. And we had expert testimony last week from folks that are implementing in many states that said as much.

Your Department also finalized a proposal in the final rule that would allow junk plans to be renewed for up to 36 months. This was not presented in the proposed rule, and stakeholders did not have an opportunity to provide input in rulemaking. Why did HHS sidestep the rulemaking process and finalize a major policy change that was not presented in the proposed rule?

Secretary Azar. I don't believe we did, and my memory is

that we asked the question whether there was legal authority for renewability, but I am not confident of that. But I thought we had asked that question, but I am not aware of any legal infirmity in the administrative processes there.

Ms. Castor. So, you are saying the Department's general counsel provided a legal opinion on the renewability provision?

Secretary Azar. No, I am saying that I thought we had asked for comment in the Notice of Proposed Rulemaking around the question of renewability. I may be mistaken. My memory is --

Ms. Castor. Would you please share those documents with the committee?

Secretary Azar. No, I am saying we asked the question to the public as to whether -- and asked for comment. You were asking about whether something was fairly included in the Notice of Proposed Rulemaking.

Ms. Castor. Yes. Could you provide those documents that you said you provided to the public and any of the legal opinions or questions --

Secretary Azar. It would be in The Federal Register because it would be -- what I am saying is I think in the Notice of Proposed Rulemaking we asked that question. I may be mistaken.

Ms. Castor. So, you are saying you would not provide those documents if --

Secretary Azar. I don't think you are listening to what

I am saying, which is that it is in the Notice -- I believe in the Notice of Proposed Rulemaking we asked the question, and --

Ms. Castor. But your Department's general counsel's legal opinion would not be in The Federal Register. Would you please provide those documents to the committee?

Secretary Azar. We would have to review that under a request for privilege and decide, and determine whether that is appropriate to share.

Ms. Castor. I don't believe that you did.

Ms. Eshoo. The gentlewoman's time has expired. I now would like to recognize the gentleman from Kentucky, Mr. Guthrie.

Mr. Guthrie. Thank you.

Thank you, Mr. Secretary. Just a couple of things before I get to my questions.

I believe short-term duration plans were legal under the previous administration?

Secretary Azar. That is correct. For the entirety of the Obama administration, they existed for 12 months, up until just the waning hours of the Obama administration, when they cut them back only to three months to try to drive people into the exchange market.

Mr. Guthrie. All right. Thanks.

Also, we are talking about per-capita caps, and I worked on this in the previous Congress. And I remember having a letter

-- and it was entered in the record when we had a hearing -- that each Member, Democrat Member of the Senate who had been serving at the time, who was still serving, who were serving in the 1990s -- I think it was '96 -- signed a letter for per-capita allotments through Medicaid and Medicare -- Medicaid. I'm sorry.

And former Committee Chairman Henry Waxman, in a 1996 congressional hearing, said that, ``the federal government would maintain its commitment to sharing the costs of providing basic health care and long-term coverage to vulnerable Americans." And he correctly pointed out that ``states would have both incentives and the tools to manage Medicaid more efficiently". He did say that, obviously, the federal assistance would have to change if there was increases beyond the control of states -- hurricanes, floods, outbreaks of contagious diseases. But that was something that, in the '90s at least, was more bipartisan.

Let me just get to -- I had a lady who came into my office the other day. A lot of us have people that come regularly with different groups with diseases, and she has ovarian cancer, and it touched my heart. But her biggest struggle, when I was talking to her, was about her daughter -- she had her grandchildren because her daughter had an opioid addiction. With everything she was going through, that was really on her heart and mind, and we talked about the opioid bill that we passed. I know that it is supported in this budget.

And I particularly had an area called Comprehensive Opioid Recovery Centers Act, which would give comprehensive coverage. It became Section 7121 of H.R. 6. And could you talk about that specific section, if you have that information, and implementation of it moving forward, or just the overall implementation of H.R. 6 as well?

Secretary Azar. I would be happy to get back to you. I am afraid I don't have details on that particular aspect of the implementation. We are, obviously, thankful to you and this committee and Congress for the SUPPORT Act and the tools that it provided us on the opioid epidemic.

Nearly every part of HHS is involved in implementing the SUPPORT Act. It is such a comprehensive piece of legislation. We are driving forward under the direction of our Assistant Secretary for Health, Admiral Brett Giroir, and trying to make sure we meet all deadlines in implementing all the various provisions of the Act.

Mr. Guthrie. Thank you very much.

And also, I wanted to just kind of ask you this: the House Republicans strongly believe that it is important that we ensure protections for individuals with preexisting conditions. And this is a commitment by you and President Trump, correct?

Secretary Azar. That is correct. The President has made clear he will sign no legislation that would change the Affordable

Care Act that does not protect preexisting conditions. His budget mandates that, that if Congress were to pass it, the $1.2 trillion American Health Care Grant to states would have to have effective risk-pooling mechanisms or other genuine protections for preexisting conditions, which we have actually worked with states to do. I have granted, I believe, seven waivers to states under the Affordable Care Act to create reinsurance pools that have actually brought premiums down from 9 to 30 percent as a result of these preexisting conditions pooling mechanisms.

Mr. Guthrie. Thank you.

And also, under the Obama administration, premiums in the individual market increased every year. But President Trump has enacted several deregulatory reforms, and premiums have decreased. Is this true?

Secretary Azar. That is absolutely true. Premiums, for the first time in the history of the Affordable Care Act, actually went down almost 2 percent from 2018 to 2019, and we saw the first increase in the number of plans since 2015. These are directly attributable to steps that we have taken to try to stabilize the marketplace, including the first thing that we did on it was a marketplace stabilization rule that were the things the insurance industry said we need to be able to run a predictable, actuarily-valid, non-gamed system.

Mr. Guthrie. Thank you.

Secretary Azar. So, we think we have a way to try to protect, to make the premiums lower and choices better.

Mr. Guthrie. Okay. Thank you.

There have been proposals for Medicare for All, a single-payer, government-run Medicare for All bill. A hundred and fifty-eight million Americans receive their insurance through their employer or their unions. What would happen to these 158 million employees if we passed Medicare for All, from the proposals you have seen?

Secretary Azar. So, CMS's data is actually 174 million Americans have their insurance through their employers. And under the plans, at least some that I have seen, your employer insurance would immediately go away because it would be outlawed; you would have to go on Medicare. Even plans that don't mandate that immediately would eventually cause the private sector plans to go away because you would create such a financial advantage for the Medicare plans, which I think pay 40 percent less to providers by law. They end up paying 40 percent less than commercial plans. It would effectively drive all private plans out of business. So, one way or the other, the different iterations would lead to 174 million Americans not having the insurance they have today.

Mr. Guthrie. Thank you.

My time has expired. I yield back. Thank you.

Ms. Eshoo. I thank the gentleman. I now have the pleasure of recognizing the gentleman from New York, Mr. Engel.

Mr. Engel. Thank you, Madam Chair.

And thank you, Mr. Secretary, for being here today.

Fifteen months ago, the Republican tax scam bill passed and was signed into law. And I said at the time, and it is even mor true today, the impact of that legislation has led to exploding deficits, and therefore, also has led to the President's budget calling for a 12 percent decrease in the HHS budget. This budget continues to promote the long-sought goal of dismantling the Affordable Care Act by another failed attempt at so-called repeal and replace the law and weakens protections for people with preexisting conditions. This would leave millions of Americans without meaningful health insurance.

Over 10 years, this budget calls for a $1.5 trillion cut in Medicaid and a $500 billion cut in Medicare, partially offset by inadequate investments in health plans which bypass consumer protections. The cut in Medicaid is approximately $1 in $4 spent today, resulting in millions of Americans losing their coverage.

The budget does provide a very modest $291 million towards what the President call halting the spread of HIV. As chairman of the House Foreign Affair Committee, I am particularly opposed to cuts in funding for global AIDS programs. There is a 22 percent cut in PEPFAR, used to treat millions internationally, mostly

in Africa, a program started by President George W. Bush. There is also a proposal to water down the U.S. contribution in the global fund to fight AIDS, TB, and malaria from $1.35 to $1.1 billion.

Inexplicitly, we also see budget slashes to the CDC of nearly 10 percent. Funding for the NIH takes a 12 percent cut of $4.5 billion, with the National Cancer Institute absorbing most of that hit. Can you imagine that?

Now, Mr. Secretary, this HHS budget is completely unacceptable and is a direct threat to the health and well-being of all Americans. I have a couple of questions.

I would like to ask you, Mr. Secretary, yes or no, can you guarantee that cutting almost $26 billion from hospitals that serve low-income and uninsured individuals will not result in a reduction in services, endanger access to vulnerable populations, or contribute to hospital closures?

Secretary Azar. I am not sure which particular cut to hospitals you are referring to in $26 billion. If it is the Medicare changes on hospitals gaming the system by jacking up private practice rates when they buy a physician practice --

Secretary Azar. DSH payments is what I am referring to. Under this formula, some of the largest DSH cuts will be on states like mine that chose to expand Medicaid, while states that rejected Medicaid expansion will get much smaller cuts. So, will

the additional DSH cuts you are proposing continue this policy of punishing states that expanded Medicaid with steeper hospital costs?

Secretary Azar. Correct me if I am wrong, but I thought the point of the Medicaid expansion, actually, was tied to DSH payments going down. That was part of the funding mechanism in it. I may be mistaken, but I think that is actually part of the original -- what President Obama and the Congress enacted, and we are sort of carrying through on that, I believe.

Mr. Engel. Well, yes, how do the cuts in the CDC and NIH budgets promote lifesaving research for those Americans desperate for a cure?

Secretary Azar. The cuts at CDC and NIH were a challenge and it is a starting point. With a tough budget environment, these are difficult choices. We have tried to prioritize, and I understand you or others will disagree with those choices. And we are happy to engage in an ongoing discussion. It is a starting point for that.

Mr. Engel. Well, the choice I am really against is the choice that gives tax breaks to very wealthy people in exchange for what we are seeing right now in this budget, hurting the poor and the middle class and their ability to have adequate health care.

You have hospitals in my district and all the surrounding

districts that serve a high number of Medicaid patients, and the uninsured are a critical part of our health care infrastructure. They ensure that our most vulnerable citizens have access to the care they need when they need it most. And these hospitals rely on funding. I know you know this. For the Medicaid Disproportionate Share hospital, a DSH will help keep their doors open and their lights on. And Medicaid DSH payments help support hospitals across the country in all types of communities, urban and rural. And at the end of this year, hospitals will face substantial cuts to their DSH funds if Congress doesn't act.

So, the President's budget, the way I look at it, doesn't propose to reduce or delay these cuts. Instead, it doubles down and proposes increasing the size of these cuts over a longer period of time. And by your own objections, this would result in $25.9 billion in cuts to Medicaid DSH on top of a $44 billion in DSH allotment reductions under current law. I don't see how hospitals will be able to sustain cuts of that size. Could you please explain to me how that would be possible?

Secretary Azar. Again, I believe that is inherent in the Affordable Care Act's structure. And in terms of uncompensated care, I thought that the Medicaid expansion and the Affordable Care Act were supposed to get rid of the uncompensated care. I mean, we can't keep the old system and have the new system on top of it and keep paying the same amount of money. That is at

least our perspective in the budget.

Mr. Engel. But let me just say, Madam Chair, and then, I will end, to me, it doesn't matter as long as we are not pulling away help that people need now. It seems to me that, from these cuts, there is no way that you can call it any other thing, but we are taking money away and many, many more people will be left uninsured and will have no help. And to me, that is not the way we should be going, providing tax cuts for the wealthy in exchange for everybody else getting screwed.

Ms. Eshoo. I thank the gentleman. I now have the pleasure of recognizing the gentleman from Virginia, Mr. Griffith, 5 minutes for questioning.

Mr. Griffith. Mr. Secretary, in trying to answer some of the questions just a minute or two ago, you were talking about the DSH payments and some of the bigger hospitals buying up small satellites in order to be able to get DSH payments they wouldn't otherwise be qualified for. Did you want to expand on that?

Secretary Azar. I am afraid on the DSH payment issues I have to get back to you on that. If you have a question on that, on detail, I would be very happy to get back to you there.

Mr. Griffith. That is fine.

In regard to having socialized medicine and have it the same parameters as the current Medicare system, where you referenced that the medical folks are paid 40 percent less under Medicare,

have you all done any studies on how many health care providers would leave the field?

And let me tell you why I ask that question. My mother is 88 years old, and obviously, she has been on Medicare for a while. Recently, her primary care physician retired. She started making phone calls and made a couple of calls and found that the doctors that she called were not taking any new Medicare patients because of the reduced payments that they were going to get. And she just decided she would work with her older doctors who were the specialists that dealt with the areas of concern, instead of having a primary care physician. So, she is actually getting less care now than she got before.

And it made me think that perhaps, at a 40 percent reduction, a fair number of health care providers, particularly those who might have other means of supporting themselves, might just go do something else. Have you all done any studies on that?

Secretary Azar. I am not aware of any studies that have been conducted yet. I think that is a fruitful area for inquiry. We ought to look at that.

We certainly see that with European socialist systems, though, that you get the better providers or hospitals who will often opt out of the socialist system because of underpayment. And what you get is a two-tier system. You will have basically an essential medicine, essential services systems, and then, you

have others who can buy up in a private sector system, alternative providers and hospitals in there. That is not to say that these are bad health care systems, but it is a two-tier system.

Mr. Griffith. And with our current system where a lot of people get it through their employer, it doesn't matter whether you are the CEO or the guy working the line or the lady working the line; you get the same system. And now we are headed toward a system that might actually have two tiers, where the people with the money can get that specialist, but the people who are working on the factory floor may not be able to get that specialist. Is that correct, yes or no?

Secretary Azar. I am extremely concerned about a two-tier system like that.

Mr. Griffith. And so, that is a yes?

Secretary Azar. Yes, that is a yes. And let's protect everybody.

Mr. Griffith. My time is slipping away from me. Just let me say this as you all look at things. We have got to figure out a way to do reimbursements for telemedicine across the board because telemedicine can save us money in the long term and provide better care in rural districts like mine. And I am a big proponent. And any way I can help you with that, I would greatly appreciate it.

Also, you all have been looking at the DIR fees, the direct

and indirect payments to pharmacists. It seems to me it is an inequitable situation that we have now, where, months later, a pharmacist who has sold a drug -- and I have lots of these across my rural district, community pharmacies. They are not big companies. They are little, small, mom-and-pop operations. And they get notice that they owe tens of thousands of dollars six months after they have already filled the prescription. You can't go back to the patient and say, ``Oh, by the way, I told you it was a $20 drug. It turns out it was a $30 drug." You just can't do that, and the pharmacists are having to eat that. You all are working on that, and I appreciate that.

You all, last year, in a Senate hearing, you stated that you were going to direct your agency's Office of Inspector General to conduct a study on these DIR fees and how these fees specifically impact community pharmacists. Has that study been completed and, if so, when do you expect to release the results?

Secretary Azar. I believe it well underway and I hope it will come out quite soon.

Mr. Griffith. All right. I appreciate that.

I also want to talk about durable medical equipment, prosthetics, orthotics, and supplies, et cetera. Competitive bidding programs have been put on hold. I appreciate that. One of the concerns in a rural area is that you may only have one or two suppliers, and while the equipment might be available to

somebody if they drive down the mountain in 45 minutes to an hour, but sometimes these folks aren't capable of doing that. And we are squeezing out the folks who would actually take the equipment to them.

In that regard, the agency now has plans to include non-invasive ventilators in the durable medical equipment program. Those, obviously, assist people that can't breathe on their own. Can you explain the rationale and clinical criteria used in the decision to include non-invasive ventilators in the next round of bidding?

Secretary Azar. Sure. The Social Security Act gives us authority to phase in items that begin with the highest-cost and the highest-volume items or services and those items that we determine have the largest savings potential. And so, all of the items that we have selected for competitive bidding are high-cost, high-volume items with a very large savings potential.

We have got a comprehensive monitoring program, and it has shown that beneficiary access and health status outcomes have been preserved under the program. We have been very concerned about the impact in rural. That is why we made the modifications that we did, I believe, midyear last year, and then, carrying forward, to attempt to ensure fair reimbursement and fair competition for rural areas especially.

Mr. Griffith. I appreciate it, and yield back, Madam Chair.

Ms. Eshoo. I thank the gentleman. I now have the pleasure of recognizing the gentleman from Maryland, Mr. Sarbanes, for 5 minutes of questioning.

Mr. Sarbanes. Thank you, Madam Chair.

And thank you, Secretary Azar, for being here.

I just wanted to make sure the record was clear on a couple of things. In response to Congresswoman Castor's questions with regard to the junk plans, I just want to point out that, while with respect to the renewability question of these plans it does look like the Department went through the normal course in terms of the NPR and allowing public comment there with respect to the extension of these plans to 36 months, that did not come until the final rule was proposed. And in that sense, it sidestepped the kind of transparency that I think we have a right to expect. So, that is the first thing.

The second thing I wanted to note is you have been asked a number of times about the cuts to NIH, and you really don't have a good answer for that, because I think it is indefensible and there is going to be a lot of continued inquiry in that regard. Because we want to stay on the cutting edge in terms of researching and finding cures to these life-threatening diseases that afflict so many Americans across the country.

But I wanted to talk specifically about the opioid crisis and address the impact of the pharmaceutical manufacturer

marketing efforts with respect to the crisis. On February 26th, a Washington Post article titled, ``Inside the House of OxyContin," detailed the actions of Purdue Pharmaceuticals and their owners, the Sackler family, in marketing opioids as safe and effective to the medical community. It highlighted, the article did, that Purdue pioneered direct-to-physician marketing and used this approach to lead a marketing strategy to persuade providers that opioids were both safe and effective for long-term use, despite a lot of scientific evidence to the contrary.

One member of the Sackler family was quoted from an email in 1996 saying, quote, ``This strategy has outperformed our expectations, market research, and fondest dreams." End quote. Twenty years later, we are dealing with the consequences of this marketing strategy. And I don't need to remind my colleagues that opioid deaths hit a record high in 2017 with 70,000 recorded opioid deaths that year.

So, how is HHS going to hold pharmaceutical manufacturers accountable for drug-marketing strategies that are boosting profits while harming our communities? Could you speak to that, please?

Secretary Azar. Congressman, thank you for raising it. It is really important because, you are right, that is a big part of how we got into this opioid crisis, were the practices in getting legal opioids out there and getting them out in primary

care, and getting them extensively overprescribed. Is it five times, I think, the European average in terms of legal opioids?

We have been aggressively working on that. We have actually gotten opioid, legal opioid prescribing down 22 percent, and on a morphine molecular equivalent, down 27 percent so far since January of 2017.

The President has directed and the Justice Department has been working. We will supported fully the Justice Department in going after any manufacturers who engaged in illegal or unethical conduct. DOJ joined in the litigation by the states against these manufacturers, and that process is ongoing. But, certainly, we will take any cases anywhere the evidence goes. I share your concern. We are deeply disturbed, and we see the foundation of this crisis in the legal opioid use that started, I think, back in the '90s.

Mr. Sarbanes. Well, I do think we need to step back and systematically look at what these marketing strategies are and decide whether we are going to lean against them going forward.

What is the standard of scientific evidence at HHS and FDA in terms of what is required from pharmaceutical manufacturers when approving drug applications, especially in the case of opioids?

Secretary Azar. New drug applications, I want to defer to my colleagues at FDA. So, I would say my current belief, but,

please, I will ask my colleagues, and we will correct it if I get it wrong.

Usually, for an on-label indication, you would require two double-blind controlled studies, randomized clinical trials, to support a labeled indication. And then, for other information that you would provide about the drug, I believe it is a substantial evidence test, but I --

Mr. Sarbanes. I am worried that whatever the standards are that are being applied are not achieving the goals that the public would want to see in terms of kind of rigorous decisions about what is safe and what is not safe. And you may have heard that the former FDA Commissioner, David Kessler, is concerned that opioids are being used in a way that was never proven to be safe or effective, particularly the decision on FDA's part to expand the label use of opioids to allow long-term use, which is something that probably should not have happened.

So, as I close, I just want to say that I think HHS and FDA have to put a plan in place for retroactively reviewing the safety and efficacy of existing opioid projects. Let's go look at what is happening right now because it could be continuing to fuel this opioid crisis. So, it is not just retrospective here. This is about making decisions going forward that can help us get out of this crisis.

With that, I yield back my time.

Ms. Eshoo. I thank the gentleman. I now would like to recognize the gentleman from Florida, Mr. Bilirakis.

Mr. Bilirakis. Thank you, Madam Chair. I appreciate it so very much.

And welcome, Mr. Secretary. Appreciate it.

I want to talk about Medicare Part D. When Congress created Medicare Part D, it did so with the belief that private sector organizations which are already administering employer-sponsored drug benefits could be used to administer a Medicare drug benefit. We now have Medicare Part D, where drug plans compete against each other to provide the lowest price to beneficiaries. It is probably the only federal program that consistently comes in under budget with premiums that have remained largely unchanged. And I know this has been going on for years. It is a very successful program.

In my district, we have 191,000 seniors, and about 80 percent of them are on either Medicare Part D or they participate in a Medicare Advantage program with a drug benefit. Some people have talked about changing Part D and having the government negotiate drug prices. Do you think the government can negotiate a better deal than what the plans have been able to negotiate over the past 15 years? Again, we want what is best for our constituents. We want low drug prices, and I know you do, too, and the President as well. So, that is the question. Again, do you think the

government can negotiate a better deal than what the plans have been able to negotiate over the past 15 years?

Secretary Azar. I do not believe that we could do a better job negotiating than these pharmacy benefit managers do, absent creating a highly-restrictive, uniform formulary for every senior citizen in America. And that is what Peter Orszag, the head of the Congressional Budget Office and President Obama's OBM Director, concluded also. These PBMs have significant market power. They negotiate discounts, where we let them, that are comparable to European OECD levels of discounting, is my understanding and experience.

But we would have to create a single formulary. We would have to say that, every senior, you may have this drug; you may not have this drug. We have heard the bipartisan concern even today on step therapy and utilization management within protected classes. Imagine the outcry if we were to say to all seniors, ``You may have" -- and I will just pick a drug -- ``You may have HUMIRA; you may not have Enbrel." That is the only way I could get better savings than the PBMs are able to negotiate.

And I think a lot of the concerns would be here. I am not sure a lot of folks who ask us for that negotiation understand the implications from a beneficiary choice and access perspective. I am happy to have that discussion with both sides of the aisle on this, because we want to solve the drug pricing

crisis. We want to solve that, but we want to solve it in the right way, with patients at the center.

Mr. Bilirakis. All right. Thank you very much, Mr. Secretary.

Again, yes, you are right. I mean, your heart is in the right place. The President's heart is in the right place. Everyone, we want lower drug prices, but, again, also choice and accessibility are so very important for our seniors.

I assume that you have reviewed the Medicare for All proposal?

Secretary Azar. I have seen and heard about different iterations of it, sir.

Mr. Bilirakis. Yes, yes. So, how would the Medicare for All proposal affect the successful Medicare Part D program, in your opinion?

Secretary Azar. It would take it away because Medicare Part D is a private-plan-administered program with private insurance, is my understanding, at least of some of the versions of that.

Mr. Bilirakis. Yes, and, in my opinion, it is not perfect, and we are going to close the donut hole. But it has been a very successful program. I hear from my seniors all the time.

Medicare Advantage is very popular in my district. Fifty-three percent of our seniors are on Medicare Advantage. They really love the program. How would Medicare for All affect

the Medicare Advantage Program?

Secretary Azar. I believe Medicare for All, under at least some versions of the Medicare for All program, that Medicare Advantage would disappear because it is a private insurance program administered by the government. But I believe it would go away and all would go onto a Medicare Fee-for-Service, the old-style 1960s Medicare that people are increasingly not choosing because they want the more private sector, flexible, choice-full benefit package of Medicare Advantage.

Mr. Bilirakis. Well, thank you very much. It would be a real shame if we lost that.

Secretary Azar. Thank you.

Mr. Bilirakis. Thank you very much. I yield back.

Ms. Eshoo. I thank the gentleman. I now would like to recognize the gentleman from Oregon, a wonderful member of this committee, Mr. Schrader.

Mr. Schrader. Thank you very much. I appreciate this.

Thank you for being here today, Mr. Secretary. I appreciate it very much.

I am not particularly a big fan of the budget that is rolled out for HHS, to be honest. We are a big fan of the ACA. This would repeal it, and the Medicaid program gets cut, cuts to research, those types of things.

But I try to look at the silver linings here, and the

prescription drug costs suggestions merit, I think, some good look-sees. In particular, generics are saving us $250 billion a year. It is a big area. I prefer, like my good colleague from Florida, market-based solutions in terms of how we encourage competition, as probably the best way to go about that.

And in the generic space, we currently give manufacturers 180 days exclusivity when they file for a new generic drug, but there have been some problems with that, with that exclusivity. Sometimes they don't just get around to marketing the drug in a timely manner, and that exclusivity drags out well beyond 180 days, basically, blocking others from getting into the marketplace and further reducing costs for the consumer.

So, a couple of questions, if I may. One is, how often does a first filer block competition from subsequent generic manufacturers, and how long does that parking actually seem to last? Any examples recently?

Secretary Azar. So, my understanding is that, on average, we see about five of those instances a year where you will have that first-to-file, essentially, squat on their 180-day exclusivity. And on average, that leads to about a 12-month delay in generics coming to market. So, it is a very significant access and financial issue.

Mr. Schrader. All right. Any recent examples of that?

Secretary Azar. I don't have a particular company or

product in mind. We could try to get that to you. But those are the average numbers there.

Mr. Schrader. All right. Well, it would be great to get that information, some real-life examples.

And what is the motivation, basically, what is the advantage for these manufacturers to park their exclusivity, which seems sort of obvious, but what you seen?

Secretary Azar. Well, there could be instances where they simply can't make the drug. There are often manufacturing problems. So, somebody gets approved, but they are not able to bring it across the finish line and manufacture. But there may also be instances where there is a deal, where there is a deal between the generic company and the branded manufacture to forestall the starting of that 180-day clock, so that the branded company can keep selling the branded drugs.

Mr. Schrader. I see. I see.

Secretary Azar. It is a likely potential source of great abuse on access to generic medicines for our people.

Mr. Schrader. Yes, and I think the goal would be, hopefully, to provide opportunity for folks to get into the market as soon as possible. Maybe some changes can be made, so that a second generic that comes to market in a timely manner would start triggering a clock.

Secretary Azar. And the President's budget has that

proposal in there. And I appreciate your leadership and Congressman Carter's leadership supporting reform here that would fix this real abuse of our generic system.

Mr. Schrader. Last question is, some people argue that the forfeiture of that exclusivity that is currently in statute provides enough protections against the parking issue that we are talking about here. I understand there have been some problems, frankly, enforcing that forfeiture portion.

Secretary Azar. Yes. I think the evidence would be to the contrary, that, in fact, we are seeing this as a real problem. And getting rid of that abuse by having the clock start as soon as the drug is available from an approval perspective, and if they don't launch as soon as there is a second drug available to come on, that clock should start or other different solutions. So, the forfeiture provisions that are there are, obviously, not quite sufficient. We need to fix this 180-day clock issue.

Mr. Schrader. Very good. Very good. Well, I appreciate your interest in that issue, and hopefully, it is one of many areas we can work together on.

Secretary Azar. I hope so.

Mr. Schrader. Thank you very much, and I yield back, Madam Chair.

Ms. Eshoo. I thank the gentleman. And we are going to have a legislative hearing tomorrow on the very issue that you just

raised with the Secretary. I hope that we have good bipartisan support on addressing that abuse.

I now would like to recognize the gentleman from Indiana, Dr. Bucshon.

Mr. Bucshon. Thank you.

And welcome, Secretary Azar, to our subcommittee.

I do agree with one of my colleagues on the other side that my constituents do need relief, but it is from the high deductibles and premiums created the ACA and the following years after that.

Secretary Azar, I was pleased to see the administration's focus on the 340(b) program again this year in the budget, specifically, a call to require transparency regarding the use of program savings by 340(b) entities. This goes hand in hand with the important work done by this committee, the Energy and Commerce Committee, last Congress in the Oversight Subcommittee in highlighting the need for 340(b) reform, and also, in exploring specific legislative proposals aimed at strengthening the program.

I was proud to sponsor a bill last Congress that would introduce common-sense data collection for 340(b) entities previously facing no oversight. It is very concerning to me that a significant number of hospitals in the 340(b) program may be providing low levels of charity care, despite the rapid growth in the program, recently, mostly through the acquisition of child

sites, and face no requirements to report on their use of 340(b) savings.

The first question I would have, would you support including a charity care requirement as a condition of eligibility for the program?

Secretary Azar. I would have to look at that and see what the administration position would be there. In our budget, of course, we do propose that, to get the benefit of savings from our reimbursement change --

Mr. Bucshon. Correct.

Secretary Azar. -- that you would have to provide, I believe, at least 1 percent charity care.

Mr. Bucshon. One percent.

Secretary Azar. So, to be a beneficiary of the budget neutrality from the outpatient changes, you would have to do that. So, we are at least are partway there already.

Mr. Bucshon. Okay. Do you think that we should have a minimum charity care level met across all hospital networks at the main hospital, but also within their network?

Secretary Azar. Well, it's certainly --

Mr. Bucshon. It is a complicated question.

Secretary Azar. The rationale on 340(b) is that you are providing that type of care. And so, it is something we need to be looking at. I am happy to work with you on that.

Mr. Bucshon. I appreciate that.

And based on your budget, would you agree that HRSA needs more authority to create clear and enforceful standards for the 340(b) program?

Secretary Azar. Absolutely. We need regulatory authority. We need oversight authority. We need transparency in 340(b). And we need a user fee program, so that those benefitting from 340(b) pay for the oversight that we need to provide over their use of the program.

Mr. Bucshon. Thank you for that answer. And could you also agree that we need to require all 340(b) covered entities to report savings achieved from the 340(b) program and their uses?

Secretary Azar. I think that type of transparency could be very useful. That is not, obviously, a formal statement of administration position, but we are generally in favor of that type of transparency.

Mr. Bucshon. I understand. Thank you again for addressing 340(b) in your budget.

And I yield back.

Mr. Burgess. Will the gentleman yield?

Mr. Bucshon. The gentleman will yield to the ranking member, yes, I will.

Mr. Burgess. I thank the gentleman for yielding.

This is such an important topic. Of course, this committee,

the Subcommittee of Oversight and Investigations did do a significant body of work and produced a report last Congress that I encourage people to look at.

But, Mr. Secretary, there was something that occurred along the way in the 340(b) genesis that got us to this point. And that was the ability of a contract pharmacy to participate in the 340(b) program. Do you have any thoughts as to whether or not that is adding to our difficulties?

Secretary Azar. It is adding to the difficulties and the issues around integrity of the program and just original purpose. And I do think it would be great if this committee could look into this question. It was a well-meaning idea at the start, which was, if a hospital doesn't want to run its own pharmacy for low-income patients when they come in, let somebody else run it. Okay, that made perfect sense. But, then, it became, well, what if they need something a little closer to home? So, extend the contract pharmacy out to pharmacies maybe in the neighborhood of the patients of that hospital. It has now become an industry. It has begun an industry of contract pharmacy, of basically shared profit between the pharmacies and these hospitals. It is worth looking at it to see the extent to which it is fulfilling the original purpose and what Congress really intends 340(b) to be about. I leave that to you all. But I do think it is worthy of being on your agenda.

Mr. Burgess. Yes, and I completely agree, and to the extent that mergers and acquisitions might evolve out of those 340(b) contract pharmacies, it is worthy of our discussion.

So, I thank the gentleman for yielding. I will yield back to you.

Mr. Bucshon. I yield back.

Ms. Eshoo. I thank the gentleman. I now have the pleasure of recognizing the gentleman from New Mexico, Mr. Lujan.

Mr. Lujan. Thank you very much, Madam Chair.

Secretary Azar, yes or no, were you given advance warning of the Department of Justice's decision to not defend the law?

Secretary Azar. I am sorry, you are speaking, I assume, about the Texas litigation? I just want to be sure I -- you said ``the law". I just want to make sure the law we are talking about --

Mr. Lujan. Yes, Mr. Secretary.

Secretary Azar. -- is the Affordable Care Act?

Mr. Lujan. Yes, Mr. Secretary.

Secretary Azar. Yes, I knew the filing that was going to happen on behalf of the United States.

Mr. Lujan. How were you notified of the Department of Justice decision? Did you receive a phone call, an email, or a written letter?

Secretary Azar. Our Department is involved in

consultations regarding the filing of litigation in which the Department has interest or is a party. And so, we have communications with the Justice Department.

Mr. Lujan. You had a phone call or was it an in-person meeting? Was it a letter? Was it a --

Secretary Azar. The nature of the discussions that I have regarding deliberations on filing of the position of the United States in litigation in this case are not ones that I can have full discussion about.

Mr. Lujan. You can't say? I understand that you have already refused to share those documents, but you can't say if it was a phone conversation or an in-person meeting?

Secretary Azar. Our Department has discussions with the Justice Department and other officials regarding the position in highly significant cases of litigation on the position of the United States. And, yes, I had a --

Mr. Lujan. Mr. Secretary, did you personally have those conversations?

Secretary Azar. I did, indeed.

Mr. Lujan. Look, it is simple. If the District Court ruling stays, millions of Americans would lose their health coverage, health care costs would skyrocket, and lifesaving health care would become unaffordable for American families. Secretary Azar, yes or no, did your Department conduct an analysis

to evaluate the effects of the Department of Justice's position on consumer cost and coverage?

Secretary Azar. I don't know if we did at the time, and as I spoke with Chairman Pallone earlier, we are working to gather up, if we do have analytics around impacts of the court decision in the case, we are working to provide those to the committee.

Mr. Lujan. Can you commit to providing that, then, to the committee? That is something you will do?

Secretary Azar. I asked my team to find any materials like that and provide those to the committee, that type of analytics, and to provide those to the committee. Absent some problem -- and I think they have communicated with committee staff to that regard -- absent something I am not aware of, I want to make sure you get that information.

Mr. Lujan. So, Mr. Secretary, surrounding the initial questions that I asked as well, why is it that there is a reluctance to share that information with the committee?

Secretary Azar. To share the analytics? I have --

Mr. Lujan. Not the analytics, Mr. Secretary. Why is it that there is a reluctance from you to share the information, pursuant to the conversation surrounding the Department of Justice's decision to not defend the law in the Texas case?

Secretary Azar. Well, obviously, discussions of individual Cabinet members at a certain level regarding positions of the

United States in litigation are historically over the course of the history of this country highly-privileged, sensitive discussions, especially with pending litigation.

Mr. Lujan. Well, Mr. Secretary, I think that there is a decision that was clearly made associated with positions of the administration. The question that I have, and why I am asking the questions that I am, is in your Senate confirmation hearings you repeatedly stated that you were committed to enforcing and upholding the Affordable Care Act. Is that correct?

Secretary Azar. I absolutely am. As long as it is the law of the land, I will in my administrative authorities work to make it work for the American people, in my judgment, as best I can.

Mr. Lujan. Well, Mr. Secretary --

Secretary Azar. But that is not a statement of whether something is constitutional or not.

Mr. Lujan. Mr. Secretary, if I may, the administration has made an unprecedented decision to throw away the responsibility to defend the Affordable Care Act and law.

Secretary Azar. So, I want to be very clear. Our policy position, as an administration and mine, is to protect preexisting conditions. You are speaking about a legal piece of litigation the Justice Department leads on. We want preexisting conditions protected. Our budget actually has a concept about how we can do that with a replacement of the Affordable Care Act. I am happy

to work with this Congress on alternative ways and approaches. The President has made it very clear he will never sign any new legislation replacing the ACA that he does not believe does protect people who have preexisting conditions.

Mr. Lujan. Well, Mr. Secretary, I am glad that you brought attention to the fact of the policy related to people with preexisting conditions because you and I very well know that the Trump administration has specifically disavowed ACA provisions that guarantee coverage and protect people with preexisting conditions. I think that that is ignoring what has occurred. Your testimony today seems to be ignoring positions that have been taken by this administration, that you, yourself, said you would uphold in court.

Secretary Azar. I think you are probably referring to short-term, limitation-duration --

Mr. Lujan. No, no, no. I know what I am referring to, Mr. Secretary.

Secretary Azar. It is totally transparent --

Mr. Lujan. And I think that it is critically important that we understand what is occurring here today and what is not occurring. And I certainly hope that you will reverse your refusal to share documents with this committee.

And with that, Madam Chair, I yield back.

Ms. Eshoo. I thank the gentleman.

We have three votes on the Floor. So, the subcommittee will stand in recess until immediately after votes.

We still have several members that are in line to question. I have 14 members. There are three that waved on, but that is still a large group.

So, Mr. Secretary, it is a chance for you to take a stretch, relax for a few minutes, figure out how you might answer the questions that are to come.

And we will return as soon as votes are completed.

Thank you.

[Recess.]

Ms. Eshoo. I call the subcommittee back to order.

Thank you, Mr. Secretary, for your patience.

And we will move on with questions. It is a huge pleasure because she has been such a wonderful partner in so many things -- the gentlewoman from Indiana, Ms. Brooks, for 5 minutes of questions.

Mrs. Brooks. Thank you, Madam Chairwoman.

And, Secretary Azar, we have talked about this in the past, the Pandemic and All-Hazards Preparedness Act, a program that, while we have reauthorized it once again in this Congress -- and I really want to thank the chairwoman, Congresswoman Eshoo, who worked with me both last Congress and this Congress to get this across the finish line here in the House once again -- it has

not yet been reauthorized. We have not yet been able to get it through the Senate.

It is supported by a host of public health groups, the Alliance for Biosecurity. And when we kicked off the Congressional Biodefense Caucus together, you participated and spoke at that Biodefense Caucus. And I thank you for speaking about the importance of PAHPA. During your remarks, you mentioned that you were involved in the writing in 2002 of the Bioterrorism Act. And I want to comment you because it appears that in the Public Health Services Emergency Fund there is, for the most part, either level funding or some increased funding relative to Pandemic and All-Hazards Preparedness.

But can you share with us the negative impact of PAHPA not being authorized? And if we cannot get this through the Senate -- there are several programs that actually expired in 2018; I won't go into those -- but what does this do for our private partners in the very critical public-private partnership in the Medical Countermeasures Enterprise?

Secretary Azar. Well, thank you, Congresswoman Brooks, for your support of PAHPA and for your advocacy of the bioterrorism front.

We are committed to reauthorization of PAHPA. We are committed to protecting Americans, and reauthorization of PAHPA is an important part of that.

There are several expired provisions that HHS does need to be able to continue the important work in this area. There is a FOIA exemption. There is an antitrust exemption. There is a National Advisory Committee on Children and Disasters. And there is a provision for temporary reassignment of federally-funded personnel.

And the expiration of these provisions does endanger our security and the broader Medical Countermeasures Development Enterprise that we have. These medical countermeasures are dependent upon a very unique and fragile U.S. Government-industry partnership in this cradle-to-grave enterprise. Specifically, if a pandemic were to occur, BARDA, which is our research and development agency, would currently be unable to negotiate and bring together certain critical medical countermeasures manufacturers due to a lack of antitrust exemptions. That is just one example of how we are at risk right now.

Mrs. Brooks. And I think because it is not commonly understood, that is because BARDA does sit with different manufacturers of vaccines to have a discussion. Is that correct?

Secretary Azar. Exactly. We can convene competitors under the antitrust exemption and they can speak freely in ways that they otherwise wouldn't be able to.

Mrs. Brooks. And that provision has expired?

Secretary Azar. That has expired.

Mrs. Brooks. Okay. So, right now, they cannot convene that type of meeting if we were to have an unusual or a pandemic and have those discussions?

Secretary Azar. If we had a pandemic and needed to scale-up production immediately for a pandemic flu vaccine, right now we would not be able to engage in those collaborative private-public partnership discussions across industry.

Mrs. Brooks. Right. Thank you.

With respect to the funding, I certainly see that the National Disaster Medical System has actually been plused-up from $57 million in FY19 to $77 million. If I am not mistaken, that is bringing in medical providers from around the country to help us in cases of disaster, of which we have seen quite a bit. Is there anything you would like to say about that? And then, we also went down, though, a bit on the Hospital Preparedness Program by $7 million.

Secretary Azar. Right. So, the National Disaster Medical System is a bedrock of our preparedness and response program. So, these are individuals who have day jobs, doctors, emergency medical technicians, veterinarians even, who work with us and allow us to surge in. For instance, you will see these people when you are at various events. Like the State of the Union, a lot of the medical professionals that are here are actually NDMS members here to protect you and me when we are here for

national security events like that. And so, it is a vital, important program, and I am very glad that we have a proposal to continue the investment with them.

Mrs. Brooks. Can you talk very briefly about the other provision that expired and the National Advisory Committee on Children and Disasters?

Secretary Azar. So, this is, of course, just getting advice from the best advisors out there on how we can focus on children in disasters. There are very unique needs and threats for children in the disaster situation, trauma, mental health, and we do want to get the best advice possible. PAHPA enables that.

Mrs. Brooks. Well, thank you. We look forward to working with you to help us get that over the finish line in the Senate.

Secretary Azar. Thank you.

Mrs. Brooks. Thank you. I yield back.

Ms. Eshoo. I thank the gentlewoman. It is a pleasure to recognize the gentleman from Massachusetts, Mr. Kennedy, for 5 minutes of questioning.

Mr. Kennedy. Thank you, Madam Chair.

Mr. Secretary, thanks for being here. Thanks for your patience as we went over to vote.

Last fall, Mr. Secretary, it was reported that your agency was considering establishing a legal definition of sex under Title IX. According to The New York Times, the memo would narrowly

define gender as a biological condition determined at birth, and any dispute about one's sex would have to be clarified using genetic testing.

Mr. Secretary, is that memo real?

Secretary Azar. So, there was litigation, I think it was at the end of the Obama administration, and a federal court actually enjoined enforcement of -- I think this is the Section 1557. Is that the provision that you are talking about?

Mr. Kennedy. Yes, but the memo exists? The New York Times said this memo exists.

Secretary Azar. I am not going to comment on whether some preliminary exists. We are working on complying with the court's order to come up just how do we -- the court said that the Obama administration's regulation was invalid. And we will just work to faithfully implement that across relevant agencies.

Mr. Kennedy. Can you give us a copy of that memo? Can you give us a copy of that memo then?

Secretary Azar. We will certainly look at that. I don't know. If it is an internal memo like that, if it is appropriate to disclose --

Mr. Kennedy. It is potentially going to impact millions of Americans in not disclosing that, or at least hundreds of thousands --

Secretary Azar. I wouldn't necessarily assume that is

operative continued thinking, that whatever was in any previous document --

Mr. Kennedy. Thank you.

So, moving on, sir, do you believe that health care is a right for all Americans in this country?

Secretary Azar. I believe that we have an important duty, all of us, this committee and this administration, to make health care as affordable as possible for all Americans.

Mr. Kennedy. So, in a less than a year, nearly 20,000 low-income people in Arkansas, sir, have lost their health care because of a work requirement that your agency approved. At the same time, the unemployment rate in Arkansas has barely budged. Is that a successful policy implementation?

Secretary Azar. So, at the request of the Arkansas government, we did approve a community engagement waiver program with them. The individuals who have fallen off that program, we do not yet have data as to why they fell off the program.

Mr. Kennedy. Have we asked them? Have you asked them?

Secretary Azar. Yes. We are working with them. That is part of the data gathering. That is part of the learning process.

Mr. Kennedy. And when do you expect to have that data back?

Secretary Azar. I don't know if it is timely for that. It is quite new. It is quite new in its implementation. So, tracing the data out to see that individuals, as you said, who

advance into work with an employer insurance, and hence, do not qualify for Medicaid anymore, need Medicaid anymore, we just don't know at this point.

Mr. Kennedy. Mr. Secretary, so in your agency's budget you propose implementing mandatory work requirements for Medicaid beneficiaries, not knowing what the impact will be across every single state. And according to some estimates, upwards of 4 million Americans can lose access to health care, 83 percent of whom would only lose coverage because of onerous reporting requirements. You just said you are not sure why people are losing it. Yet, you have now said that you want to extend that to every single state. What is the logic in that?

Secretary Azar. The logic behind that is we believe that it is a fundamental aspect for able-bodied adults, if you are receiving free health care from the taxpayer, it is not too much to ask that you engage in some form of community activity engagement, work training. That is consistent with TANF and the important welfare reforms that were bipartisan. The administration's budget proposal would actually harmonize these across all public welfare programs.

Mr. Kennedy. Mr. Secretary, your mission is to try to make sure that everybody gets access to health care in this country. Can you point me to one study that says that work requirements make people healthier? One?

Secretary Azar. We believe that individuals who have employment have healthier outcomes. I don't have the data to cite. We have used that in litigation, though.

Mr. Kennedy. Sir, you run an agency responsible for health care for millions of Americans. Healthier people working does not mean that work requirements make people healthier. I assume you understand that?

Secretary Azar. Well, we are dealing with -- because of the Obama --

Mr. Kennedy. Is that true, yes or no?

Secretary Azar. Could you repeat the question?

Mr. Kennedy. Healthier people working is not the same thing as work making people healthier? Is there any single study you can point to, yes or no, that shows that work requirements make people healthier?

Secretary Azar. I would have to provide that in writing to you, if we have that.

Mr. Kennedy. I look forward to the answer. Thank you.

You are aware of studies in Ohio and Michigan that show that Medicaid expansion actually helped beneficiaries obtain jobs or remain employed? Are you aware of that, the studies?

Secretary Azar. Medicaid can be a hand-up for individuals to help them with transitioning into work. The goal of all these programs should be to help people become independent, and that

is all of our goal.

Mr. Kennedy. Except the data that you are looking at seems to indicate that there are tens of thousands of people that are losing health care in a policy that you want to extend across the country without answering why.

Secretary Azar. Well, we don't know if they lost their -- if they fell out and stopped complying with the work or community engagement requirements because they actually secured jobs and just didn't need to keep applying.

Mr. Kennedy. And does cutting Medicare and Medicaid by $1.5 trillion actually make this program easier to extend health care to more people?

Secretary Azar. So, what we want to do is we want to remove the Medicaid expansion for able-bodied adults --

Mr. Kennedy. The budget indicates, Mr. Secretary --

Secretary Azar. -- and focus the program on the aged, blind, disabled --

Mr. Kennedy. Yes or no, you are cutting these programs by $1.5 trillion?

Secretary Azar. Our proposal does have a $1.4 trillion, I believe, cut over 10 years to Medicaid, yes.

Mr. Kennedy. And so, I would imagine that cutting a program by $1.4 trillion doesn't actually make the program, strengthen the integrity of the program or make it easier for people to gain

access to insurance.

I would like to finally conclude with the basis for my comments on this, which is it is the perspective of at least this Member of Congress, and I think other colleagues of mine, that Medicaid work requirements are against the Social Security -- the very statute that incorporates Medicaid, Section 115 of the Social Security Act, and are illegal.

I yield back.

Ms. Eshoo. I thank the gentleman. Now I would like to recognize the gentleman from Oklahoma, Mr. Mullin, 5 minutes of questioning.

Mr. Mullin. Thank you so much.

Let me go back to the work requirements for just a little bit. Social Security is something that people paid into because they work and it is deducted out of their paycheck, and it is something they have earned. It is not an entitlement. It is something that they were required to pay into. And so, it is supposed to be there.

If I am not mistaken, the work requirement, it only targets individuals that are abled individuals -- able-bodied individuals means there is no disability; there is not a reason why they can't work. It is able-bodied individuals that are single with no dependents. Isn't that correct?

Secretary Azar. Able-bodied individuals. I don't know

about the single. They would need to be able-bodied and you wouldn't have pregnant women, and I believe with all of our waivers they have ensured that there is an exclusion of, for instance, women who have young children.

Mr. Mullin. Right, with no dependents, right.

Secretary Azar. Trying to be very simple about it.

Mr. Mullin. And the proposal that I looked at was able-bodied individuals with no dependencies.

Secretary Azar. I would need to check if that is in the budget. That is certainly the theme of what we approved with waivers, has been ensuring that it is very common sense -- individuals who there is no issue why they couldn't go do volunteer work or job training.

Mr. Mullin. Right. And one of the things you were saying is you don't have the data because a lot of these able-bodied individuals, they were able to go get jobs and we have employer health care that could be covering them? There is no statistics out there to say one or the next. But if they dropped off, they probably went and got a job. Just like my employees, since I have had my very first employee back in '97, I provided health care for them. There is no need for them to be on there at that point, is that correct?

Secretary Azar. Right. If the program has enabled -- if the booming economy, the historic low unemployment rate, and this

program has enabled individuals to secure jobs where they get employer insurance --

Mr. Mullin. Right.

Secretary Azar. -- they don't need to be on Medicaid anymore. That seems to be a win for taxpayers and a win for them, a win all around.

Mr. Mullin. Sure. I mean, listen, we have got 7.3 million-plus job openings right now. We are all competing, all employers like myself, we are competing for that employee, and benefits sometimes is what puts it over the top.

So, I commend you for giving Arkansas and other states the ability to run their state as they see fit. Because we have got to put more people in the workforce. Otherwise, we are just going to be holding our economy back. So, thank you so much for doing that and explaining it.

Let me turn my attention right now to 42 CFR Part 2. Are you familiar with that, sir?

Secretary Azar. I am, yes.

Mr. Mullin. As you know, last year, we worked pretty tirelessly here in the House, had hearings on it. We were able to get it out of this committee to the Floor. It passed overwhelmingly with bipartisan support, 357-to-57. And unfortunately, it goes to the Senate and dies, which so many great things do. And so, we are now faced with the real possibility

that we are costing people's lives at this point. We have doctors that aren't able to really see the full patient's history. And we understand that HHS may be working on some rules that could help soften this a little bit. Is that correct?

Secretary Azar. So, we have been very public about the fact that we have heard the concerns from you, from patients, from family members about --

Mr. Mullin. Physicians?

Secretary Azar. Physicians, law enforcement, just around the care for people with serious mental illness and substance use disorder, and are they getting what they need or are our regulations artificially standing in the way, while still trying to protect their privacy needs? So, yes, we are working on proposals where we might try reform there, and also, of course, we appreciate the work of Congress in looking to reconcile Part 2 with HIPAA's requirements. And thank you for your leadership and work on this issue.

Mr. Mullin. It is vitally important. I think it has hit home to most people around the country right now, especially with the drug abuse that is taking place and the amount of opioids that are out there on the streets. So, I appreciate it. Is there anything that we can help you with that HHS might be considering with 42 CFR Part 2?

Secretary Azar. I would say certainly continuing Congress'

efforts to look at reconciling Part 2 to HIPAA, to make sure that we have uniform standards. There is just so much confusion out there. And that is one of the things that I hear a lot, is with these privacy provisions, they are important privacy provisions, but you get a lot over-lawyering at hospitals and schools --

Mr. Mullin. Right.

Secretary Azar. -- and otherwise, that basically tell people, no, you can't do this; no, you can't do that.

Mr. Mullin. So true. Over-lawyering, I like that word.

Secretary Azar. We try to correct it with FAQs. But, as you said, people's lives are actually at risk. If parents don't know their kid is suffering from an opioid addiction, that is a problem. If a patient goes back into the hospital and the providers don't know they are a recovering opioid addict, and they give them opioids and put them back on it in a procedure, that is a problem.

Mr. Mullin. Right. I couldn't agree with you more.

I don't have time to get to my IHS questions, but I do want to work with you in getting some of the recommendations that have been recommended for IHS. It is in disarray, especially with what just came to the light with the physician, the pediatrician who has been abusing the patients for over 25 years, and there was a lot of missteps and opportunities to get him out. So, we would love to work with you, and then, maybe see if we can implement

just some standard SOPs through IHS and help modernize that system.

Secretary Azar. I look forward to that. Thank you.

Mr. Mullin. Thank you so much for your time.

I yield back.

Ms. Eshoo. I thank the gentleman. I would now like to recognize with pleasure the gentleman from California, Mr. Cardenas, 5 minutes for questions.

Mr. Cardenas. Thank you, Secretary Azar. Welcome to the People's House, and thank you for coming today, for the opportunity to ask questions, and more importantly, to finally receive some of the answers in full view of the American public.

There are certainly many topics to select today, but I want to spend some time focusing on an administrative policy that shocked the nation in the not-so-distant past, the policy of separating children from their families. Just recently, Secretary Nielsen testified before Congress on this same policy. But I am particularly interested to hear from you, Secretary Azar, considering your position leading the agency whose mission statement, as you said in your opening statement today, is: ``to enhance and protect the health and well-being of all Americans by providing for effective health and human services by fostering sound, sustained advances in sciences underlying medicine, public health, and social services."

That being the case, I am interested to hear what, if anything, was done to protect these children and what is being done to address these ill effects on the children and their physical and mental condition. So, my first question is, in cases where a parent is separated from a child because of criminal conduct or safety-related concerns, what evidentiary standard is required to justify the separation? And what written guidance or policy, if any, is provided to your Department by DHS personnel making these determinations when it comes to the child's welfare and expertise that comes out of your Department?

Secretary Azar. So, we do not separate children.

Mr. Cardenas. Correct, but, then, after that --

Secretary Azar. Right, the decision to separate would be made over generally at DHS, and it would usually be CBP, sometimes ICE, over there.

I do know there are standards in the TVPRA, the Trafficking Victims Protection Act, that certain felonies -- where a felony conviction is required there, but I would have to defer to DHS on what the contours are. We don't actually have a say in what the standards are necessarily that they would use.

We get children, and hopefully, we get as much information as possible why they are coming to us, either across the border or coming from a family unit.

Mr. Cardenas. Thank you. Reclaiming my time, what I am

trying to get at here is HHS is better qualified with expertise to deal with children, especially when they are separated from their family. DHS doesn't do that as well as you do. They turn them over to you, is that correct?

Secretary Azar. That is correct, yes.

Mr. Cardenas. Okay. So, the root of my question is this: that having been the case, and thousands and thousands of children having been turned over to HHS from DHS, is HHS engaged in advising DHS, so that they can make better decisions in the interest of the physical and mental health and well-being of that child?

Mr. Cardenas. So, I think that is a very fair question. I don't think we are fully engaged in the sense that they have their agents who have to make judgment calls on individual cases. They have their standards internally. I don't have those. I would, obviously, welcome the opportunity for HHS's child welfare professionals to provide advice and assistance to DHS in making those calls and setting standards for their SOPs. We may have done so. I apologize, if it is happening, I don't want to slight the process. But we would be very happy always to be engaged in that.

Mr. Cardenas. And also, if HHS has been engaged in dialoging with DHS on these matters, if you could forward any of that to us, so we can understand the collaboration that is going on.

So that, hopefully, should these separations ever continue -- and it is my understanding that some children are still separated from their parents -- that we would at least expect that in the United States of America, with all the resources and expertise we have, they would be minimizing the effects on these children's physical and mental well-being, adverse effects on their well-being. So, if there is any information showing that that dialog is going on, to me, that is good. We would love to know what that is.

Secretary Azar. Yes. Thank you. I mean, it is very important question and concern.

Mr. Cardenas. Thank you.

Secretary Azar. I appreciate your doing that.

Mr. Cardenas. Okay. And also, has HHS already instituted policies, protocols, and procedures to limit harm to children and their families during these separations? In other words, since these separations have become so public and the numbers have grown most recently, has HHS changed or instituted new policies? Because we are in a paradigm shift right now with the numbers being higher than they have probably ever been before in American history.

Secretary Azar. So, we have dramatically improved the information-sharing practices, the IT systems between the Departments, so that we can track and make sure that we always

have it very easy to keep the kids connected to the parent. We want to make sure they are in touch all the time. Okay?

All of our children who are separated, in one form or another, they all are under mental health evaluation. Within 24 hours, they all get mental health evaluations. And I think we continue to learn how to deal with the particular traumas and mental health issues associated with being away from one's parents, whether back in Guatemala or in ICE custody. And so, I think we continue to try to be a learning organization and improve the quality of care for these kids while we are entrusted with them.

Mr. Cardenas. My time has expired. Thank you, Madam Chair.

Ms. Eshoo. I thank the gentleman. Now it is a pleasure to recognize the gentleman from North Carolina, Mr. Hudson.

Mr. Hudson. I thank the chair.

Mr. Secretary, thank you for being here today what is almost three and a half hours now because of our vote. But I really appreciate you making yourself available for so much time.

Your leadership at HHS has been exemplary. And in general, I really appreciate the efforts you are making on behalf of the American people to make health care more accessible and more affordable. I want to put that on the record in case my questions today make it appear that I only have concerns.

But the first being that, on February 15th, I sent a letter with 22 of my colleagues, three of which are here today, to

Commissioner Gottlieb in regards to recent proposal by the FDA on menthol cigarettes and e-cigarette sales in convenience stores. It was reported on March 1st that Commissioner Gottlieb presented his plan to the White House. Yet, the FDA has still not responded to serious concerns raised by colleagues and I about this proposal. Will you commit to getting FDA's response back to our letter before HHS moves forward with this proposal?

Secretary Azar. We have different elements in what was publicly discussed by the Commissioner regarding both e-cigarettes, and then, there was a separate issue of menthol additives. And I am sorry you haven't had a response yet from Commissioner Gottlieb on that. I don't want to delay any process that may be underway, though, to take action, especially on this issue of the e-cigarette epidemic that we have. This is a real public health crisis with the access and the attractiveness to our teenagers and even middle school kids. And so, I don't want to do anything that might delay that process. It really is we are very, very concerned about this e-cigarette issue and what is happening to our kids.

Mr. Hudson. Well, sure. And even if you share the goal of wanting to keep these out of the hands of kids, I think it is still important for us to understand the process and what kind of rules you are proposing. So, we would appreciate a response.

Secretary Azar. Anything that we do in this space would

be subject, of course, whether it is rulemaking or good guidance practices, would be a public process with comment and feedback to make sure we are striking the right measure. We have to make sure with e-cigarettes -- they can be a very important public health tool for getting adults who are addicted to combustible tobacco off of that. It is better to be on an alternative nicotine-delivery product than to be on combustible tobacco. But, at the same time, we can't allow it to become an on ramp to nicotine addiction or eventually combustible tobacco use by our middle school kids and teenagers, and just the utilization is soaring through the roof of those products there. So, that balance, we will get feedback on that, and we will get input on that, on how to strike that right balance because it needs a balance.

Mr. Hudson. I agree with that, and I think the industry, for the most part, except for some bad actors out there, and also, a concern about shipments from China of illegal product and counterfeit product, I think those are all things we need to work on, and I think we can agree to work on together.

But I think the data shows this is a safe alternative. And so, the process is flowing one way where we are seeing people come off combustible tobacco to the vapor-type products, and we are not seeing the reverse as the case. And so, I do think it is a public health improvement and would appreciate being in the

loop as much as we can, as you move forward and look at that.

The second issue, I saw in the budget proposal HHS is proposing that FDA begin collecting user fees from the e-cigarette industry to support regulation of the products. In general, I think FDA has demonstrated how beneficial user fees can be, especially in the drug and device space, to provide much-needed resources that an agency responsible for regulating one-fifth of every dollar spent by Americans. In the tobacco space, however, FDA has not had the same relationship. The Tobacco Control Act has been the law for a decade. Yet, FDA has approved zero products through the Modified Risk Tobacco Product pathway. Is it your intention that these new resources, through a user fee, would begin a new period of approval at FDA?

Secretary Azar. Yes, that is the purpose of extending the user fees to the e-cigarettes as alternative tobacco products, would be to provide us the resources to enable us to build out the regulatory architecture and approval processes for these products, which we have executed regulatory forbearance on to date.

Mr. Hudson. Right. I appreciate that.

The last issue, changing course a little bit, the President has pledged in the State of the Union to eliminate new HIV infections by 2030, as a far-reaching and important goal for U.S. public health. The financial resources proposed in yesterday's

budget release speaks to the President's commitment to improving diagnosis, testing, and linkage to care for HIV. I commend the President for taking such a monumental effort and hope to do what I can to support his plan.

Given this goal, though, I must ask about a problem a number of my constituents that are HIV patients have raised with me. Medicare Part D provides for protected classes where Medicare must generally cover all drugs within that class. With HIV drugs being one of the current six classes -- I am running out of time here -- but my basic question is, how does HHS intend on balancing the goal of introducing cost-control measures such as prior authorization and step therapy with elimination of new HIV infections by maintaining patient adherence to working drug regimens in the HIV space?

Secretary Azar. I am happy to get back to you in writing on that, for the chairwoman, if that is okay.

Mr. Hudson. Sorry about that. An important issue, but I would appreciate the response.

Secretary Azar. It is. It is a very important issue. Thank you.

Mr. Hudson. Thanks.

Ms. Eshoo. I was expecting a long answer from the Secretary. He is able to get back to you. I thank the gentleman for his questions. And now, I have the pleasure of recognizing the

gentleman from Vermont, a high-value member of this committee, Mr. Welch.

Mr. Welch. Thank you very much.

Secretary Azar, thank you so much for being here.

You know, there are two things about health care. One is access related to cost, and the other is cost. There are two ways to bring down the overall cost of health care, restrict access or lower cost. And I am opposed to cutting access, but I am determined to work with you on your efforts to lower costs.

And I want to say something. I believe that President Trump on prescription drug prices is intent on bringing down the cost. I believe you are. I thank you for your meeting. I believe you are committed to doing that. I know Chairwoman Eshoo is, and I believe Ranking Member Burgess and our ranking member, the entire committee who is here, Mr. Upton is. So, we have got a chance.

A couple of things. You have got some good things in the budget. It calls a statutory demonstration authority for up to five state Medicaid programs to test the closed formulary. And we can address that later.

It proposes to authorize you to leverage Medicare Part D plans in negotiating power for certain drugs covered under Part B. So, I support those.

And the proposals you have made in the budget, they are in

the budget, yes, about opposing delay tactics, where I think some of my colleagues like Mr. Carter, who has got a lot of experience in this, are totally supportive. My goal is for us to do those things, ideally do them together, because I think that will increase our prospects of success in the Senate, and a bipartisan approach on that would really be helpful.

So, I do have a couple of questions, just to see your position on a few other things. You do support, as I understand it, ending pay for delay. Is that the case?

Secretary Azar. We do. In fact, our budget has a unique pay-for-delay provision in it, in that if you do a pay-for-delay agreement, you would actually be penalized in the Medicare Part B system, yes.

Mr. Welch. Right, and that is really good. And you want to curb the REMS abuses?

Secretary Azar. Absolutely do. So, the CREATES Act, I am working with you on that.

Mr. Welch. Right. And the product hopping that has been occurring is another way. Are you opposed to that as well?

Secretary Azar. I want to make sure I am understanding the product --

Mr. Welch. It is the abuse of citizens -- it is product hopping, the citizen petitions --

Secretary Azar. Oh, the citizen issues, yes, we want to

crack -- yes.

Mr. Welch. -- and other forms of evergreening.

Secretary Azar. Yes, we want to crack --

Mr. Welch. I mean, that is just manipulating the market.

Secretary Azar. We want to crack down on any forms of manipulation or evergreening of patents and exclusivity beyond what the original deals were, absolutely.

Mr. Welch. All right. And the President also indicated that he wants to require the drug companies to disclose the price of the products they are advertising --

Secretary Azar. Yes.

Mr. Welch. -- something Jan Schakowsky and our committee is championing.

Secretary Azar. Right.

Mr. Welch. Now, on this question of negotiation, you raised earlier what is the dilemma. If you want to get real savings, you need a strict formulary, and that restricts patient choice. But if you have no formulary, the cost is so highs it restricts patient access.

And the way we approached this in Vermont is we did have a formulary created by physicians and pharmacists like Mr. Carter, but there was a failsafe. So that if the doctor said, ``Peter, you just need the other drug," that would get me outside of the formulary.

Are you open to exploring some ways to try to address I think the shared concern about not having a formulary restrict appropriate access, but to get the benefits of lower costs that would spread out across the system for all of us?

Secretary Azar. So, I agree with you that the simple fact is, if you don't have a formulary and the ability for someone, the middleman, the pharmacy benefit manager, to control and move share, they can't jam pharmaceutical companies for discounts and rebates. They need power.

Mr. Welch. Right.

Secretary Azar. They have got to be able to move. That is what our proposals in Part D and Medicare Advantage have been about, is how do we create power against the pharma companies to get discounts. But with the competition of D and MA, you can still choose. If the patient doesn't like the approach that one plan is making, they can choose a different --

Mr. Welch. Right, but there has got to be that balance.

Secretary Azar. Yes, these are difficult calls, absolutely.

Mr. Welch. Right, but what I am trying to say here is that we share the desire for the patient to get what the doctor thinks --

Secretary Azar. Yes.

Mr. Welch. -- the patient needs. But we want to get

overall cost savings. So, let's work together to try --

Secretary Azar. Absolutely.

Mr. Welch. -- to address that concern.

The other thing is high-cost specialty drugs don't have any competition, and the PBMs don't have any leverage, what you were just talking about, to use competition to lower net prices. Would you be open to negotiation to lower drug prices in these cases where competition simply doesn't work?

Secretary Azar. So, I am happy to work with you on ideas that keep the patient at the center. We propose foreign reference pricing in Part B --

Mr. Welch. Right.

Secretary Azar. -- where we don't have a competitive mechanism for pricing. And we are happy to look at different approaches that create proxies for effective pricing there.

Mr. Welch. Okay. I yield back.

But thank you very much, Secretary Azar.

And I hope, Madam Chair, that we are able to make some concrete progress with our Republican colleagues on this.

Ms. Eshoo. I agree with you.

Now I would like to recognize the gentleman from Georgia, the patient Mr. Carter, for 5 minutes of questioning.

Mr. Carter. Thank you, Madam Chair.

And, Mr. Secretary, thank you for being here.

Mr. Secretary, as you know, for the past four years, I have been the only pharmacist currently serving in Congress, and I currently remain the only pharmacist.

Prescription drug prices have been something that is extremely important to me and something that I have concentrated on. And I want to thank you for your work, and thank you, and your staff, in particular, particularly John O'Brien, who has done an outstanding job in helping us.

This is something you are familiar with. You are familiar, having been a CEO of a pharmaceutical manufacturer, and that certainly gives you a unique insight. But I have dealt with it in over 30 years of practicing pharmacy and seeing the evolution of the middleman, of the pharmacy benefit managers, the PBMs, and the abuses that I feel like that they have had over the years.

And now, the administration is finally addressing that. I can't tell you how much that means. And, Mr. Secretary, I feel like this will be your legacy, and I think it is an honorable legacy. And I want to thank you for that, and this administration as well, as was mentioned. This administration has made this a top priority, and I think it will be one of their legacies. There could not be a more honorable legacy, in my opinion, after having practiced pharmacy for 30 years and seeing the impact that high prescription prices has on people.

I have seen it at the front counter. I have witnessed it.

I have seen senior citizens have to make a decision between buying medicine and buying groceries. I have seen mothers in tears because they couldn't afford medications for their children. This is very serious and something that is bipartisan.

Representative Schrader mentioned earlier a bill that we are working on in a bipartisan fashion, the BLOCKING Act, that will be brought up next week. That is something that is very important. We have to do away with the abuse of the generic manufacturers to delay this system like this.

Two things have been proposed by HHS. One has to do with DIR fees. DIR fees are atrocious. Two weeks ago, I got a text from a pharmacist who showed me where they had been charged, his pharmacy has been charged over $300,000 in DIR fees for the year. Only this morning, I got another text from a pharmacist who owns seven drugstores, $500,000 in DIR fees. Mr. Secretary, you can't stay in business in that kind of business model. It is just not feasible.

Moving the discounts to the point of sale, I have always said that the most immediate and most significant impact we can have on prescription drug pricing is to have transparency. This will help bring about transparency. Only this morning, UnitedHealthcare announced that they are going to move this into the private sector as well. This is exactly what we need. This is exactly what we have been fighting for. That is why I want

to thank you for this.

I find it interesting that, in the rebate rule, that HHS and OIG, they have asked for three different scores. That is a little bit unusual, isn't it? Can you explain what has come about with that?

Secretary Azar. Yes, absolutely. So, the reason there are multiple scores in the proposed rule -- and we wanted to be transparent about it, so we published them -- is our actuary from CMS came out with a score. And you are trying to predict the behavior of private market actors, and I am sorry, actuaries are well-meaning, but they don't predict how businesses and private actors will behaviorally change. You all see that with CBO and so-called lack of dynamic scoring around legislation. We have the same issue on regulations.

And so, we wanted to get these different perspectives of what might happen in the marketplace. I firmly believe that, if we can work together to get this rebate rule out, we will bring $29 billion of savings to seniors at the point of sale at pharmacies, starting January 1st. And I believe that we will keep premiums stable in Part D because it is a highly-sensitive marketplace to premium, and I believe the Part D plans will manage that effectively. I think it will get list prices down. It is, I think, the best tool we can have to completely change how drugs are priced in this country for the benefit of our citizens.

Mr. Carter. I couldn't agree with you more, Mr. Secretary. I just thank you for that and thank you for your efforts in this. And I hope you will continue on with this. This is exactly the route we need to be taking and exactly the direction we need to be having.

Moving very quickly to the 340(b) program, look, we don't want to end the 340(b) program. It is a good program, but it needs some guardrails on it, and we understand that. And that is what we are trying to do, is just tighten it up, get some accountability, some transparency, make sure it is going where it was supposed to be going. We are not saying that anybody is cheating. We are just saying that it is not being done in the way that we intended it to be done. Your comments on that?

Secretary Azar. We would love to be a partner with Congress and this committee on how we can bring that kind of transparency, oversight, and keep 340(b) effective for the purposes it was intended.

Mr. Carter. Thank you, Mr. Secretary. Again, I want to thank you for your work, thank your staff for their work, the administration for this. This is about the patient. This will bring about lower cost for patients. It will bring about more accessibility, more affordability, and better health care in America. Thank you, Mr. Secretary.

Secretary Azar. Thank you.

Ms. Eshoo. I thank the gentleman. I now am pleased to recognize Dr. Ruiz from California for 5 minutes of questioning.

Mr. Ruiz. Thank you. Thank you, Madam Chair.

Secretary Azar, I am an emergency physician. And from the Coachella Valley farm worker community where I grew up to the hospitals where I worked as an emergency medicine physician, to the alleys and parks where I practiced street medicine, I have seen so many examples of how inadequate access to health care has devastated families, communities, and local economies.

Passage of the Affordable Care Act, including Medicaid expansion, has dramatically improved access to care. According to California Health Care Foundation, Medicaid enrollment in the Inland Empire region of California, where my district resides, increased by 57 percent in less than two years after Medicaid expansion.

Instead of enacting policies that would shore up health care coverage, this administration has worked to undermine the ACA. In addition to selling junk health plans, dramatically rolling back enrollment outreach efforts, and refusing to make cost-share reduction payments, this budget continues to try to repeal the ACA, turns Medicaid into a block grant program, and imposes barriers like Medicaid work requirements.

In my district and across the nation, the effects of the budget would result in increased premiums, increased

out-of-pocket costs for consumers, and more people without insurance. According to data from Georgetown University, in my district 1 in 4 adults are covered by Medicaid and 58 percent of children are covered by Medicaid or CHIP. Cutting this coverage is unacceptable, and I will stand up for my constituents and the millions of Americans across the country that rely on these programs.

In addition, Secretary Azar, I would like to discuss the administration's final rule on the Title X family planning program issued late February that would make it more difficult to access essential services like birth control, HIV and STD testing, women's and men's health care, and pregnancy testing for individuals in underserved areas. This rule would directly hurt four Title-X-funded health centers in my district and thousands of my constituents who are served by them, often in underserved areas.

Let me explain. The final rule prohibits Title X providers, like those in my district, from referring their patients for abortion services, despite being allowed under current law and even if the patient specifically requests it. Never mind that Title X already cannot fund any abortion. But that means doctors won't be able to provide the best medical advice to their patients.

It also requires all Title X grantees to have strict financial and physical separation from any activities that fall

outside the program scopes. That means a facility where 97 percent of the services are for prevention, cancer screenings, oral contraceptives, STD screenings, would not be able to receive Title X funds. They would have to, in order to receive these funds, build an entirely different facility, which is costly, cost-prohibitive, and they wouldn't be able to do that. What most likely will happen, if this is allowed to go forward, is these clinics will shut down, making breast exams, pap smears, and other critical health care services unavailable for those who need it.

So, I want to get your sense, Secretary Azar. Do you believe that the Title X program has successfully served as a source of critical, preventative care for patients?

Secretary Azar. The Title X program is very important. It provides important resources, contraceptive and comprehensive family planning for individuals. And that is why we fully funded it.

Mr. Ruiz. Great.

Secretary Azar. But we also want to ensure the fiscal integrity of the program.

Mr. Ruiz. So, let me ask you, then why has the administration chosen to move forward with changes to the program that would drastically alter how the current program operates and how patients can receive care?

Secretary Azar. By definition, in the example you just gave, federal taxpayer money is being used to support the provision of abortions. It is subsidizing that. If they wouldn't be able to run that business independently, absent our Title X money, it means that we are subsidizing that.

Mr. Ruiz. But those monies cannot go towards abortion.

Secretary Azar. Then they should be able to separate --

Mr. Ruiz. Those monies help for breast exams, pap smears, and other preventative services. That is what they use those monies for. It is illegal for them to use that money for abortions.

Can you explain why you believe that withholding necessary information from patients, from doctors, even when specifically requested, even if a patient specifically requests, ``What are your referrals? Where can I go if I am considering an abortion?", et cetera, is appropriate under medical ethics?

Secretary Azar. So, under the final rule, we allow, as the statute allows, non-directive counseling, including related to abortion, and the provider is allowed to provide a list of service providers, including those that do provide abortions, but they are not allowed to just pick up the phone and actually directly refer them over.

Mr. Ruiz. Okay. Do you believe this rule will increase access to care for patients served by Title X?

Secretary Azar. I think we actually may see an influx of additional providers willing to come in and be part of Title X. And these are fiscal integrity provisions --

Mr. Ruiz. So, in terms of access, in terms of a young woman's ability to get their pap smears going to an underserved area where the only providers are those receiving Title X funds, 98 percent of the services are for oral contraception, family planning, counseling, and breast exams, as well as pap smears, et cetera, for cancer prevention, you think by defunding them or making it hard for them to function in their clinic, when they are the only clinic in that community, is going to increase health care access for women?

Secretary Azar. Not allowing them, through the Title X program affiliate, to support abortions --

Mr. Ruiz. I would take that as a --

Secretary Azar. -- shouldn't be a problem. It shouldn't impact their operations.

Mr. Ruiz. But it will. That is the whole point of this conversation, is that it will. It creates barriers for those individuals who provide 98 percent of their services for basic primary care to deliver on those services.

Ms. Eshoo. The gentleman's time has expired. It is an important conversation. Thank you, Dr. Ruiz.

I would like to now recognize the gentleman from Montana,

Mr. Gianforte.

Mr. Gianforte. Thank you, Madam Chair.

Secretary Azar, thank you for coming before the committee today.

I want to note for the record that, after hours of testimony, you look fresh and energetic. I appreciate your endurance.

I have four topics I want to touch on quickly, if I could. Many in Montana, especially our rural communities, struggle with meth and opioid abuse. The rural nature of Montana makes it challenging to ensure these individuals have access to treatment. The President's budget requests $120 million for the Rural Communities Opioid Response Program, which supports treatment and prevention of all substance use disorders in the highest-risk rural communities. Could you touch briefly on how this program will help focus resources on reducing meth and opioid abuse, particularly in underserved communities?

Secretary Azar. Absolutely. Thank you.

And we are very concerned about not just the opioid issues, but any type of substance use disorder, especially in our rural areas. So, that is why the program, Congress, on a bipartisan basis, enacted with the Rural Communities Opioid Response Program last year is so important. In '95, one year, our core planning awards were made to support rural communities to identify opioid use disorders in their communities and develop plans to resolve

these issues. And we are going to introduce additional awards in FY 2019 that we hope will yield large-scale organizational and infrastructure improvements at the rural and state level. And we also were going to develop a program just for rural and critical access hospitals, as well as Medicaid-certified rural health clinics, in an effort to expand MAT in rural communities.

Mr. Gianforte. Yes. Okay. Thank you. And our office stands ready to help --

Secretary Azar. Thank you.

Mr. Gianforte. -- particularly with rural.

I want to switch topics. Suicide is among one of the leading causes of death in the United States, exceeding the rate of death for car accidents. Unfortunately, Montana has the highest rate of suicide per capita in the country. What is the administration doing to help us reduce the deaths from suicide?

Secretary Azar. Yes. So, on serious mental illness and mental health care, we have invested, I believe it is over a billion dollars in the budget that is dedicated towards serious mental illness. Suicide, as you know, is the 10th leading cause of death for adults, the second leading cause of death for our youth. As SAMHSA, our largest mental health program, the Community Mental Health Services Block Grant, actually provides formula funding to enable states for serious mental illness and emotional disturbance. The Community Mental Health Services

Block Grant is funded at $722 million. Our total mental health budget is actually $1.506 billion just in SAMHSA. And our suicide prevention program is $74 million. And another very interesting program is the Assertive Community Treatment for Adults with Serious Mental Illness. That is actually increased to $15 million, allows a much more interactive approach to individuals who are facing risk of mental illness and suicide.

Mr. Gianforte. Okay. I appreciate your attention there. It is critically important to us back in Montana.

Switching topics again, 18 percent of Montanans are over the age of 65. Your budget would allow these seniors to expand their ability to have health and medical savings accounts. These are options that are widely supported and encourage people to save for their health care needs. Can you just briefly detail how this works and why it is a good idea?

Secretary Azar. So, what we want to do is expand the ability of individuals to use tax-free savings to assist them in building the health care that they want. So, for instance, in our health savings account proposal, we want to allow you to save more money. We want to allow the health savings account to be used not just for high-deductible plans, but really any plan that achieves a 70 percent actuarial evaluation. It is a technical insurance term. But it basically would allow HSAs to be used more frequently, expanding the use of, I think the old Archer, the

Medicare Savings Accounts, to expand. It has been a fairly small program. We want to just create more options, especially in rural areas, and to take the money and be able to seek out alternatives that meet your needs.

Mr. Gianforte. My last question, and you will be happy to hear it is a yes/no question, an easy one. Montana farmers grow a diverse range of crops. Last Congress I signed onto a bill that would allow industrial hemp farming. And the bill was signed into law as part of the farm bill. Now that hemp is legal, I am glad that the FDA has begun thinking about how to regulate CBD. Dr. Gottlieb had stated that the FDA planned to hold a public meeting on CBD regulation in April. Is the FDA still planning on having this hearing now that we have had a change in leadership?

Secretary Azar. Yes.

Mr. Gianforte. Okay.

Secretary Azar. Yes.

Mr. Gianforte. So, that is still going to occur?

Secretary Azar. It is an important issue. We have got to figure out how we deal with CBD oil and the constituent element issues around marijuana. So, absolutely, yes.

Mr. Gianforte. Great. Well, I want to thank you once again for your hard work. We have to work together across the aisle to get health care costs down and maintain access, and I appreciate your leadership.

And with that, I yield back.

Ms. Eshoo. I thank the gentleman. Now it is a pleasure to recognize the gentlewoman from New Hampshire, a new member of Energy and Commerce and the Health Subcommittee, Ms. Kuster.

Ms. Kuster. Thank you very much, Madam Chair.

And thank you, Secretary Azar, for your patience with us. This has been a long day for all of us.

The ACA helped millions of Americans enroll in affordable comprehensive coverage. The law, Section 1332, provides states with the flexibility to experiment with health reforms, but the law makes clear that states seeking 1332 waivers must provide comprehensive affordable coverage to a comparable number of residences under the ACA.

I have a few yes-or-no questions on 1332 waiver guidance. Simply yes or no, are you aware that the guidance could substantially raise costs for Americans with preexisting conditions?

Secretary Azar. The guidance is guidance. We would have to see an individual request from a state. Nothing in the guidance changes the ACA. It just says that to states, please come in with plans if you want to enroll.

Ms. Kuster. Well, these would be preexisting conditions. If they did not have coverage, would you agree that it would be more expensive?

Secretary Azar. We are not able to approve any plans that waive preexisting conditions coverage under 1332. I think that is rock solid, is my understanding.

Ms. Kuster. Are you aware that the guidance could substantially increase consumers' out-of-pocket costs and monthly premiums?

Secretary Azar. The guidance cannot do that. A state plan would have to come in with a request, and that would certainly be something that we would evaluate as part of that process. The guidance is simply saying to states, you can come in with plans; we will look at them. There is no commitment to approve --

Ms. Kuster. Well, would you acknowledge that insurance companies could substantially reduce the benefits that the product would cover?

Secretary Azar. I don't know that, under 1332, we are able to waive the essential benefits coverage. I would have to check on that to get back to you on that.

Ms. Kuster. Do you think it is appropriate to spend taxpayer dollars on junk insurance plans rather than comprehensive coverage for Americans?

Secretary Azar. So, one Washingtonian's view of junk could be to somebody in rural New Hampshire their lifeline of some form of insurance that they couldn't afford. Twenty-nine million

Americans still are lacking insurance, and we are trying to make other options available for people. Short-term, limited-duration is one, expansions to HRAs. No one has talked about this, which could actually add 10 million people into the ACA exchanges through the HRA regulation that we have proposed. So, we are just trying to make more and more options available, so people can choose --

Ms. Kuster. Well, can you explain why HHS has sidestepped the full rulemaking process in promulgating its guidance?

Secretary Azar. Yes. The 1332 guidance was promulgated actually using, I believe, the identical processes that the Obama administration used in putting out their 1332 guidance.

Ms. Kuster. Did your Department's general counsel provide a legal opinion on the guidance, including on the statutory guardrails and whether the guidance should be subject to the APA?

Secretary Azar. I don't know, but I presume so, because any action coming out would normally be subjected to legal review. But it was put out exactly the same as Obama put out.

Ms. Kuster. Will you commit to sharing this analysis with the committee? I am focused on your administration. Would you commit to sharing this analysis with the committee?

Secretary Azar. We will look at it and determine if it is appropriate to share in terms of privilege.

Ms. Kuster. And you will get back to the committee on that?

Secretary Azar. Absolutely. Ms. Kuster. And the statutory text is clear that a state waiver must meet these four guardrails specified in the law. Do you agree that any state waiver has to meet the guardrails specified in statute in order to be approved by your Department?

Secretary Azar. Well, of course. We have to act consistent with the statute, and we will do so.

Ms. Kuster. And if a state submitted a waiver application that would provide less comprehensive or less affordable coverage to its state residents, would your Department approve it?

Secretary Azar. I think we laid out in the guidance an alternative way of looking at the comprehensiveness aspects. What we found was that the previous administration had so interpreted the comprehensiveness aspects that no states were actually, whether red, blue, whatever, were willing to come in with requests because it was so confining and lacking in flexibility, and we thought violated the 1332 --

Ms. Kuster. Well, will you commit to upholding the law and only approving 1332 waivers that meet the guardrails specified in the statute?

Secretary Azar. We certainly will only do so to meet the guardrails in the statute. In candor, though, you and I, our administrations may differ on what it means in terms of, what it may mean in terms of the comprehensiveness.

I just want to correct something, if I could. Essential health benefits are actually waivable in the guidance. I misstated that. I mis-recollected. So, I do want to clarify. I have been informed that essential health benefits would be waivable, and that is why it opened the door to short-term, limited-duration plans.

Ms. Kuster. Okay. I am going to switch gears now, if I could reclaim my time.

Secretary Azar. Sorry. Sorry for the error there.

Ms. Kuster. Is it true that your request in the budget cuts $52 million from the SAMHSA mental health programs?

Secretary Azar. There may be a part of it that does, that does cut a part of the program that we find less effective.

Ms. Kuster. And $31 million from substance abuse treatment programs?

Secretary Azar. Well, I mean, we can play these games. There is $1.5 billion of serious mental illness and mental health programs within SAMHSA that we are requesting funding in the budget.

Ms. Kuster. But, for example, the ONDCP has been cut completely? Or that is funded?

Secretary Azar. First, ONDCP is not part of SAMHSA. What happened is, the one program which SAMHSA already administered, I believe the funding for that was actually moved over to SAMHSA

to regularize how that is administered. I believe that was --

Ms. Kuster. I am sorry, my time is over. I am just trying to follow this bouncing ball, because I think SAMHSA actually is losing over $160 million for this program, with this trick of moving the ONDCP funding.

But I yield back.

Ms. Eshoo. I thank the gentlewoman. I am now pleased to recognize the gentleman from Missouri, Mr. Long, 5 minutes for questioning --

Mr. Long. Thank you, Madam Chairwoman. Thank you.

Ms. Eshoo. -- and a few seconds of something lighthearted.

Mr. Long. I'm sorry?

Ms. Eshoo. And a few seconds of something lighthearted.

[Laughter.]

Mr. Long. I will tell you, it has been a long day. I will tell you that. I don't know how much of that I have got in my right now.

But I had another subcommittee hearing most of the day, why I was late getting in here, and I hope I don't repeat anything that was said earlier.

But, Secretary Azar, I want to thank you for being here today. And I understand you have been here some four hours now. I want to commend you for all your hard work for all of us that you do.

And I also want to recognize President Trump for proposing

a fiscally-responsible budget which reflects the reality of the Budget Control Act. Can you detail what your priorities are and how you worked to restrain spending, in light of the current law?

Secretary Azar. Thank you very much, Congressman.

As you know, we are trying to submit a budget that complies with the caps agreements. We have submitted a budget that tries to comply with the caps, the budget caps, that the Congress and President Obama actually put into statute. And so, to do that, it requires tough choices.

So, the prioritization that we used in looking at our budget, working with OMB and the White House, has been, first, fiscal discipline. So, make sure that we are contributing across the board to the overall functioning of the budget. The second is ensuring responsible stewardship of taxpayer dollars. We actually eliminate 90 programs that we find to be ineffective or less effective than others, supporting and prioritizing direct service delivery. So, where are we actually providing health care or human services to people as opposed to capacity-building, and providing flexible funding to states and others, rather than just categorical programs. So, those would be some of the ways.

Obviously, there are some other areas like opioid funding that we have prioritized, ending the HIV epidemic that we have really prioritized funding, and bioterrorism preparedness, of course.

Mr. Long. Yes, I always say that, of the 435 congressional districts, there is 435 of us that will swear that our district has the worst opioid epidemic in the country. So, it is a huge problem.

As you are well aware, the Community Health Center Fund expires on September 30, 2019, and the budget proposes to continue funding them at $4 billion in mandatory resources for each of the fiscal years 2020 and 2021. How do Community Health Centers serve as a gateway to integrated care for individuals for mental illnesses and substance disorders?

Secretary Azar. The Community Health Center Program is absolutely vital to our efforts around substance use disorder, mental health, primary care provision. So, as you mentioned, the budget that we have on the Health Center Program, in that budget, in the FY 2020 proposal, we continue the $544 million of ongoing annual investment and expanded mental health and substance use disorder services related to the treatment, prevention, and awareness of opioid abuse, which were initially awarded in FYs 2016 through 2019.

Mr. Long. Okay. Community Health Centers are increasingly using telehealth, which is very important to rural districts like mine, to better meet patients' needs, especially in those rural areas where residents face long distances between home and health care providers, and sometimes it is just not worth it. The

elderly don't want to drive 70 miles to get services, or 100 miles, or whatever the case may be. Do you see the value in allowing more use of telehealth in health centers?

Secretary Azar. I am passionate believer in telehealth, especially as part of how we need to bring services to rural areas and other underserved areas. The HRSA Telehealth Network Grant Program is part of that, which provides funding. But we want to keep working with Congress to find other ways to help address the rural health care crisis in the country and the underserved crisis. Telehealth has to be a part of that.

Mr. Long. HHS developed the Reimagine HHS plan to increase the efficiency of the Department. Could you talk a little more about this plan and how it can improve the functioning of HHS's programs?

Secretary Azar. Thank you very much. So, with Reimagine HHS, what we did is, it is essentially taking the President's management agenda and looking at this $1.3 trillion agency with 80,000 people, and we talk to our career people. I have got just tremendous respect over the two decades that I have been around HHS and the career officials we have at our Department. And we did a bottom-up process asking them, if you could run HHS differently, what would you do differently?

And so, first, we want to make HHS the best place to work. We want high employee engagement. We want people to feel very

fulfilled in the important mission of our work.

We want to improve NIH's operations. So, part of Reimagine HHS is to create, essentially, regional hubs within NIH where we can optimize several platform services there, not a single service provider for all of NIH, but create some collaborative hubs that will save money and, hopefully, improve efficiency and improve quality.

We want to reform our acquisition processes, so that we can buy smarter.

Just a couple of examples of good common-sense ways to run a massive department better using the genius of our own career people.

Mr. Long. Okay. I am going to have to stop you there. I don't have any time left, but if I did, I would yield it back.

Ms. Eshoo. That was generous.

[Laughter.]

He is known for his generosity.

The patient gentlewoman from Illinois, Ms. Kelly --

Ms. Kelly. Thank you, Madam Chair.

Ms. Eshoo. -- Robin Kelly.

Ms. Kelly. Thank you.

I think we can all agree that, regardless of political affiliation, we should all want to ensure that children have access to health care. After years of decline, recently, the

number of uninsured children in this country has been significantly increasing. In 2017, the first year of the Trump administration, according to the American Community Survey conducted by the Census Bureau, the number of uninsured children increased by 276,000. And according to HHS's data, in 2018, the number of children enrolled in Medicaid and CHIP declined by nearly 600,000. There is no data showing that the number of children enrolled in private health insurance coverage increased by 600,000 over the same period. So, it is pretty clear that hundreds of thousands more children will be uninsured.

Since all of this is happening on your watch, I have a couple of questions. Your CMS Administrator, Seema Verma, likes to say that Medicaid will always be around for those who truly need it. But, according to these numbers, there are a significant number of children who are losing health coverage under Medicaid and CHIP, and many children going uninsured.

Secretary, just yes or no, are low-income children included in your definition of those how truly need Medicaid?

Secretary Azar. Absolutely. They are one of the core populations of Medicaid, of course, as well as our SCHIP program. Absolutely, the low-income children are a core of that, of the traditional -- I mean, that is part of what we want to do, is really make sure we are not losing our focus on some of the core populations Medicaid was built for, and low-income children,

absolutely.

Ms. Kelly. What does the President's budget propose to stem the increase and return uninsurance rates among children to the historically low rate that the President inherited in 2016?

Secretary Azar. So, we haven't, to my knowledge -- and if we have, I would like to know; if there is something that we have done in regulation, or otherwise, in Medicaid that is impacting that and access to Medicaid for low-income children, please let's talk about that.

Ms. Kelly. Okay.

Secretary Azar. I would like to know that.

Ms. Kelly. Okay.

Secretary Azar. And then, we can build interventions around that. So, I would like to solve the problem. I am glad you are highlighting this for my attention, and I am happy to work with you on that.

Ms. Kelly. Okay. We would love to.

In some states, you have approved waivers to take away health coverage from parents who failed to work a certain number of hours each month. We know from research that, when parents have health insurance, their children are more likely to be covered. Another yes-or-no question. Can you guarantee that no children will be affected by their parents' coverage loss in those states?

Secretary Azar. Children should not be impacted by any of

the work requirement or community engagement programs that I am aware of in terms of the waivers that we have granted. Even if the parent were to come off, they would have been qualified as able-bodied under Medicaid expansion populations. I want to double-check on that, though, if I could get back to you there. I would be very surprised if that would impact child coverage, but I just want to make sure that I am being accurate with you. If I could get back to you on that, to be sure --

Ms. Kelly. I would appreciate it.

Secretary Azar. -- if you don't mind?

Ms. Kelly. And just changing a little bit, I was asked by some young people to ask this. Menthol cigarettes have had a particularly devastating impact on young African-Americans. Seven out of 10 African-American youths smoke menthol cigarettes. You prohibit tobacco companies from using cherry, strawberry, and other flavors to attract kids. It has been four years since the FDA announced that it would issue a proposed rulemaking on menthol. Can you assure me the FDA will soon issue a proposed rule to prohibit menthol cigarettes?

Secretary Azar. So, I share your concern about menthol as an additive in tobacco. I share the public health concern about attractiveness, especially in the African-American community, and some of the data that we've seen around possible fostering of addiction or attractiveness there. We want to make sure we

are gathering all the public health information on this. And so, I do anticipate that we continue to run processes to learn here. I don't know that the first step would be a regulatory action as opposed to initiating a process to make sure we get -- we have to build the public health base very solid with evidence on rulemakings in that space.

But I know your concern. I share your concern. Commissioner Gottlieb shares that concern. He addressed that in some public comments he made recently. And so, we want to keep moving on that. But I don't know the exact mechanism that the next one would be.

Ms. Kelly. I will report your answer back.

Secretary Azar. Thank you.

Ms. Kelly. I yield back the rest of my time.

Ms. Eshoo. Okay, let's see. Now I would like to recognize the gentlewoman from California, a new member of the full committee and this subcommittee, Ms. Barragan.

Ms. Barragan. Thank you, Madam Chairwoman.

Mr. Azar, thank you for being here today.

Have you had a chance to visit the Homestead detention facility in Florida?

Secretary Azar. I have, yes.

Ms. Barragan. When was that?

Secretary Azar. It would have been about a month or a month

and a half ago that I visited.

Ms. Barragan. Do you remember when you visited the facility, roughly, how many children were being housed there?

Secretary Azar. Actually, I may have that information. It should have been relatively stable. I don't have the actual census in front of me now. I don't want to speculate on a number.

Ms. Barragan. Okay.

Secretary Azar. I just don't have that in front of me at the moment.

Ms. Barragan. And the Homestead facility, it is a temporary shelter, is that correct?

Secretary Azar. It is what we call a temporary influx shelter. What we do, because the inflow of unaccompanied alien children across the border is so unpredictable, we build permanent shelters.

Ms. Barragan. Right, but this is a temporary one?

Secretary Azar. And we have temporary influx to give us flux capacity, but we keep working to try to add permanent capacity, because we would much prefer permanent capacity to temporary influx, absolutely.

Ms. Barragan. Okay. So, when it is temporary, there is no requirement to get a license from the State of Florida, is that correct?

Secretary Azar. So, the temporary influx shelters are not

subject to state licensure, but they are subject to all of ORR's regulatory requirements, yes.

Ms. Barragan. Well, the permanent facilities have different requirements, is that right?

Secretary Azar. A permanent facility actually does have to be licensed by the state --

Ms. Barragan. Okay, okay.

Secretary Azar. -- as a temporary influx to be --

Ms. Barragan. I just want to make sure we are clear. The permanent facilities actually do have regulations that are followed. The temporary ones don't have to follow those same regulations as the permanent ones?

Secretary Azar. They do not have to be state licensed. They still have to follow all of the ORR's regulatory and practice requirements for --

Ms. Barragan. Right, and they are different. I just want to note for the record --

Secretary Azar. And they are subject to Florida's regulatory --

Ms. Barragan. -- that they are different, and a temporary has different requirements than a permanent one?

Secretary Azar. That is correct.

Ms. Barragan. Okay. Why are we running emergency unlicensed facilities when there has been no unexpected surge

of unaccompanied minor arrivals?

Secretary Azar. No unexpected surge? We have had 120 percent unaccompanied alien children coming into this country in February over last year. I am sorry, we are in a crisis. We --

Ms. Barragan. There is no surge, though, sir. If you take a look at your own numbers, in February 26, 2019, I was told there were 1600, per your own -- actually, it is your own release that I have here. Sixteen unaccompanied minors were housed there. There have been many, many more in the past, and there has been no surge to really need a temporary facility in which children really are being treated differently.

Let me ask you, Mr. Secretary, about your visit when you were there. When you visited there, did you get to see the rooms that are really cold, where immigrants are being packed like sardines there? Did you see that when you were there?

Secretary Azar. I saw dormitory rooms that had, I think there were 10 beds in the rooms, that had air conditioning. You are in southern Florida. They had air conditioning.

Ms. Barragan. So, did you not see --

Secretary Azar. Sometimes the kids do complain that we keep the temperature a little cold.

Ms. Barragan. Sir, I am asking you a very specific question. In your assessment when you went to go see there, did you see

children being packed into these cold rooms?

Secretary Azar. Of course not.

Ms. Barragan. So, you did not see what other people are seeing? You did not see 70, up to 250, kids in these rooms?

Secretary Azar. Oh, so if what you are referring to is not the dormitory, the age 17 part of the facility on, I think it is the north campus, does have congregate living for the 17-year-olds, I believe it is. And they are in a large, open area. And interestingly, I asked about exactly the thing you are asking. And what I was told -- it may be incorrect -- was that the kids actually prefer, that 17-year-olds actually prefer that more open, congregate setting, social setting.

Ms. Barragan. Do we let the kids decide if they want to -- how they want to sleep? My understanding is that, beforehand, most kids would sleep in rooms of 12. Now you have children in these large rooms that sleep up to 70 to 250 kids. From my reports that I have seen, it is inhumane, the way kids are being treated there. It is inhumane that they are being situated there. They are certainly not a family setting. Would you say it is a family setting there?

Secretary Azar. I would just dispute inhumane. I met with the student council representatives and --

Ms. Barragan. Do you feel like it is a family setting there? Everything I have heard is that it is like a prison. And the

kids, they form lines and --

Secretary Azar. I have got to tell you, you know, these -- I hope I --

Ms. Barragan. Do you think that is an inaccurate assessment?

Secretary Azar. It disgusts me when people refer to the grand --

Ms. Barragan. Mr. Secretary, I am just asking you a very simple question.

Secretary Azar. We are talking there --

Ms. Barragan. Do you think it is like a prison setting or do you disagree?

Secretary Azar. No, I do not. No, I do not.

Ms. Barragan. You do not think it is like a prison setting?

Secretary Azar. No, I do not.

Ms. Barragan. Okay. I want to ask you really quickly, sir, because I know my time is expiring here, do you agree that anytime that a child is abused in the care of ORR, that is one too many children?

Secretary Azar. Any child abused is one too many child abused, absolutely.

Ms. Barragan. Okay. There have been reports of thousands of children who have had sexual abuse incidences in ORR custody. Do you know of any where there have been against staff?

Secretary Azar. I am sorry, where what? Any where?

Ms. Barragan. Any complaints where they have been against staff?

Secretary Azar. Against staff?

Ms. Barragan. Yes.

Secretary Azar. Against ORR staff?

Ms. Barragan. Yes.

Secretary Azar. Absolutely not. ORR doesn't --

Ms. Barragan. You don't know of one incident?

Secretary Azar. ORR itself does not take care of the children. We have nonprofit grantees who take care of children.

Ms. Barragan. But they are under your --

Secretary Azar. No, but you asked about ORR staff. The grantees, we have received in the past four years over 4,000 complaints, including in the Obama administration, about a thousand sexual misconducts. Of those, 178 over four years involved allegations of children regarding staff members, adult-minor sexual abuse, all of which are reported to authorities and investigated. We will actually be putting a report out soon showing a very high rate of those being unsubstantiated, but we take each one deadly seriously, absolutely,

Ms. Barragan. Well, they are under your jurisdiction, sir.

Ms. Eshoo. The time has expired. I thank the gentlewoman. And now, I would like to recognize the gentlewoman from Delaware,

Ms. Blunt Rochester, for 5 minutes of questioning.

Ms. Blunt Rochester. Thank you, Madam Chairman.

And thank you, Secretary, for being before our subcommittee today.

Mr. Secretary, I get a lot of visits in my office. Even as recent as today, I had folks come in from the American College of Obstetrics and Gynecology. I had women from the sorority Delta Sigma Theta. There is a lot of concern, No. 1, about the budget proposals, everything from NIH funding to Medicare and Medicaid cuts.

But one of the big things that people focused on was the real rollbacks to the Affordable Care Act and what people have witnessed as, from day one, actions that the administration and your Department have taken that have made it much harder for Americans to access and afford the vital health insurance coverage that they rely on.

The administration has undermined the health insurance market by cutting off cost-sharing reductions, gutting ACA marketplace enrollment periods and outreach, reducing funding for the Navigator program, while promoting the sale of short-term, limited plans, also known as junk plans, which don't comply with the ACA consumer protections, don't provide adequate health care coverage or financial protections for families.

And so, my question, the first question is, Mr. Secretary,

your Department recently proposed a rule that would change the formula for the ACA subsidies. Your Department's own analysis acknowledges that the proposed policy would increase premiums for 7 million individuals and cause hundreds of thousands to lose coverage. Mr. Secretary, in deciding to propose this policy, did you consider the fact that it would increase premiums and out-of-pocket costs for millions of Americans? And that is just a yes-or-no question.

Secretary Azar. I want to make sure I am understanding what you are asking about. I think you might be talking about the notice with the premium indexing? Is that what you are referring to? Because, with the notice on premium indexing, it had been indexed just to employer increases in premiums. We proposed, actually, index the premium contribution based on a metric that would include employer as well as the individual market premiums, as the basis for what the individual maximum required contribution towards insurance coverage is. So, I think that is what you are referring to.

Ms. Blunt Rochester. But is it correct that it would increase premiums for 7 million individuals?

Secretary Azar. The indexing, by increasing the index, it would increase for some individuals.

Ms. Blunt Rochester. So, yes? So, the answer is --

Secretary Azar. I don't know the 7 million, but it would

increase, yes, the indexing increases to account for that.

Ms. Blunt Rochester. Okay. So, 7 million people.

Mr. Secretary, your Department also requested comment on a policy that would end the practice of automatically re-enrolling consumers in the marketplace. The Department acknowledges that 2 million Americans rely on automatic re-enrollment. Approximately 2 million individuals could lose coverage if the Department terminates this policy. So, you are basically getting rid of one of the easiest pathways for Americans to get health coverage.

The Department has also made a concerted effort to make it more difficult for people to obtain coverage in the exchanges by drastically reducing funding for outreach and education activities, as we mentioned, gutting the Navigator program and limiting the time of enrollment, ultimately, giving consumers less opportunities and less time to make informed choices.

Secretary Azar, can you commit to ensuring that Americans wishing to enroll in coverage are well-informed about the opportunities to enroll?

Secretary Azar. I think they are, and we see those results, I believe, through the enrollment numbers, which show actually a fairly consistent pathway on enrollment numbers year over year. And we saw, I think, historic levels of 90 percent satisfaction with call center interactions. We didn't even have to use the

waiting room in the call center, I think for the second year in a row. I think we are --

Ms. Blunt Rochester. Well, I am just going to jump in for a quick minute because I don't have that much time. But I know that it has been a challenge for folks to do the outreach. And I know that the budget in the past was cut by 90 percent for marketing and outreach. And so, if you could share with us specifically, with that kind of cut, what do you propose to reach out to folks?

Secretary Azar. So, we have had that, consistent with last year and this year, we have had more limited federal spending around outreach. And what we have done is relied on the private plans, who have every incentive to get people enrolled in their plans to do so. And we have seen very efficient and effective enrollment seasons where I believe they have stayed relatively consistent, certainly in light of economic indicators. And so, I think it is actually working. They are bearing the burden, as they should --

Ms. Blunt Rochester. You mentioned, also, something about enhanced disclosure. I am sorry, I only have 10 seconds. For the so-called junk plans, can you talk about what does an enhanced disclosure actually mean?

Secretary Azar. We have required that they very clearly disclose that this is not compliant with the Affordable Care Act

EHB provisions.

Ms. Blunt Rochester. It is just inconsistent to cut off the marketing and outreach, but at the same time you are acknowledging that you need enhanced disclosure and more information to people. So, my goal is that we would really make it more available to people, easier for them to get automatic enrollments, and more time for people to make informed choices.

And thank you for your patience as well, for being here.

Ms. Eshoo. I thank the gentlewoman for her excellent questions. Now I would like to recognize the gentleman from Illinois, Mr. Rush, for 5 minutes of discussion. And then, we will be moving to the second round of questions, and there are designated members that will participate in that.

Mr. Rush, 5 minutes.

Mr. Rush. I want to thank you, Madam Chairman.

Secretary Azar, studies have found that short-term, limited-duration health plans, often referred to as junk plans, engage in deceptive marketing tactics and insurance brokers who are selling these plans fail to provide consumers with detailed plan information.

I would like to share a story that a patient, Sam Bochar, a 29-year-old patient from Chicago wrote in a testimony submitted to this subcommittee earlier year at a hearing entitled, ``Strengthening our Health Care Systems: Legislation to Reverse

ACA Sabotage and Ensure Preexisting Conditions Protection".

Sam enrolled in a junk insurance policy after an insurance broker misled him about the benefits covered under the plan. Sam had been experiencing back pain. After enrolling in a junk insurance plan, Sam was diagnosed with cancer. His insurer refused to pay for his treatment, claiming that the cancer was a preexisting condition that was not covered because Sam should have known that cancer was the cause of his back pain. He was left with almost a million dollars in medical bills.

Mr. Secretary, your Department acknowledged that consumers who purchase junk plans and, then, get sick or, quote, ``develop chronic conditions could face financial hardship as a result". End quote.

Mr. Secretary, yes or no, do you think that it takes this country in the right direction to go back to the days when a policy could be rescinded if you get sick or you get declined for preexisting conditions? Yes or no?

Secretary Azar. We don't believe that. We believe people should have the option to have their preexisting conditions covered. The short-term, limited-duration plans, though, are helpful for the 29 million Americans who got shut out of the Affordable Care Act market.

Mr. Rush. Thank you, Mr. Secretary. All right.

A study by the Georgetown University Health Policy Institute

found that many consumers enrolling in these deceptive plans are led to believe they are purchasing comprehensive policies, what, in fact, they are not. Plain and simple, these plans are nothing but garbage. The same study found that brokers often fail to disclose to consumers the junk plans are not comprehensive coverage and would deliberately steer consumers toward junk plans. For example, brokers selling junk plans over the phone pressure consumers to quickly purchase these plans without providing written information, including information on the benefits covered.

Mr. Secretary, are you aware and did you consider in rulemaking that these plans often engage in aggressive marketing, and that means people do not understand what they are buying? Yes or no?

Secretary Azar. So, yes, we enhanced the protections compared to what the Obama administration had around the short-term duration plans that they had in their rulemaking.

Mr. Rush. Mr. Secretary, are you aware that insurers of these junk plans currently engage in the practice post-claims underwriting, as the insurance commissioner of Pennsylvania testified before this subcommittee?

Secretary Azar. These plans are subject to state law and regulation. So, that would be that insurance commissioner's issue on how to regulate these plans.

Mr. Rush. Secretary Azar, someone with insurance should not have to worry about filing for bankruptcy or not having access to lifesaving treatment. These junk plans are not about consumer choice and freedom. These products are a risk to people's health and to their economic security.

Thank you, and I yield back the balance of my time.

Ms. Eshoo. As previously discussed with the minority, we will now move to a second round of questions, which the Secretary has agreed to, from three Democratic members and three Republican members.

I now would like to recognize Ms. DeGette of Colorado. Let's see, how much time? Five minutes? I recognize her for 5 minutes in this round.

Ms. DeGette. Thank you very much, Madam Chair, for recognizing me.

Mr. Secretary, as you know, I am the chair of the Oversight and Investigations Subcommittee, and we had hoped to have you here for our hearing that we had on the border separations, but we are glad to have you now.

I wanted to just ask you a couple of questions about the zero tolerance policy, instituted on April 6th, 2018, under which nearly 3,000 children were separated from their parents. Secretary Azar, were you consulted prior to the issuance of this policy or informed it was under consideration?

Secretary Azar. I was not aware that that policy was under consideration before the Attorney General announced it on April -- was it April 6th, or so?

Ms. DeGette. Now wouldn't you normally be, since HHS has the Office of Refugee Resettlement which would be taking these children, wouldn't it be normal to consult HHS before instituting a policy like this?

Secretary Azar. I would have hoped so.

Ms. DeGette. But they didn't talk to you beforehand?

Secretary Azar. Not to me, no.

Ms. DeGette. If you had been consulted, what would your recommendation have been?

Secretary Azar. I think it is very hard now, looking back with all that we have been through, to do 20/20 backwards. You know, it is easy to Monday morning quarterback.

Ms. DeGette. Do you think you may have said it was a good idea?

Secretary Azar. I hope that I would have raised the significant child welfare officials, the significant issues around program and reputational --

Ms. DeGette. But you are not sure if you would have?

Secretary Azar. I just want to be fair to my colleagues and everyone else. It is very easy in retrospect to say --

Ms. DeGette. But wait, let me ask you this: when did you

learn about this? When did you learn about this policy?

Secretary Azar. So, this policy, let's be clear, the Attorney General, on April 6th, announced zero tolerance.

Ms. DeGette. That is right.

Secretary Azar. And then, I believe it was March 7th, announced the implementation of the zero tolerance and 100 percent referral.

Ms. DeGette. Well, March 7th is before April.

Secretary Azar. May, I am sorry, May 7th. May 7th, zero tolerance and --

Ms. DeGette. But when did they start taking the kids from the parents?

Secretary Azar. I don't know when they first started. I learned about the fact of the zero tolerance, of course, when it would have been in the press April 6th.

Ms. DeGette. But when did you, as the head of HHS, learn that the children were starting to be taken from their parents and put into the custody of your agency?

Secretary Azar. If you wouldn't mind, I will be happy to tell you. So, April 6th, I would have seen it in the media or learned about it. I very quickly fell ill and was in the hospital for several weeks of hospital-at-home care in the month of April. Around when the Attorney General made his announcement of implementation May 7th, I would have known about the fact that

that was coming out. But I want to be clear. I did not connect the dots that zero tolerance and 100 percent referral meant implications for our program, nor was there any indication from discussions with me.

Ms. DeGette. Well, when did you learn of that?

Secretary Azar. It would have been in the days and weeks following the announcement on May 7th.

Ms. DeGette. May 7th?

Secretary Azar. Yes. As we started seeing kids and seeing media stories around that.

Ms. DeGette. Did you talk to the Attorney General, or anybody else, about that?

Secretary Azar. I did not speak to the Attorney General himself about that, but there were various meetings --

Ms. DeGette. Who did you talk to about it?

Secretary Azar. We would have talked to the Department of Homeland Security.

Ms. DeGette. Who did you, Secretary Azar, talk to?

Secretary Azar. Talked to when and about what?

Ms. DeGette. In the weeks after May 7th about this policy.

Secretary Azar. In the weeks after May 7th, our immediate concern was taking care of these kids.

Ms. DeGette. So, no, no, no. Who did you talk to in the weeks after May 7th about this policy?

Secretary Azar. I would have talked to, I would have spoken with the Secretary of Homeland Security routinely, the White House, the interagency policy process around immigration policy.

Ms. DeGette. And what did you tell them at that time your agency's view was towards this policy?

Secretary Azar. So, our focus was on how do we take these kids in and deal with the issues --

Ms. DeGette. So, you didn't register an objection to it at that time?

Secretary Azar. I did not.

Ms. DeGette. Okay. Now Commander White came before the Oversight and Investigations Subcommittee. He told us he raised concerns with HHS leadership about the family separation policy. Did you know of Commander White's concerns?

Secretary Azar. I did not. In fact, I, unfortunately, did not know Commander White until I brought him in to help with this problem in June.

Ms. DeGette. Okay. And you don't recall him ever telling you or you never learned that he was expressing concerns throughout the agency?

Secretary Azar. No, and --

Ms. DeGette. Okay. Can I just say, this is the frustration for us because he was there; you are here. We have asked for documents. Mr. Pallone is going to talk to you about it. But

I would appreciate it if we could get those email communications to find out what the agency knew. You can work with us on that.

Secretary Azar. We are certainly working on it. I believe we produced several thousands already, and we will keep working with you on a rolling basis on producing materials.

Ms. DeGette. Thank you.

One last thing. There was an article in The New York Times on the 9th of March, and it said that the separations are still happening; there are 245 children that have been removed since the policy was reversed. And it also says that staff members have raised questions with Border Control agents about what appear to be little or no justification. Do you have any knowledge of that?

Secretary Azar. Yes, I do. And if I could answer?

Ms. DeGette. If you can please answer?

Secretary Azar. So, separations have always happened, and they continue to happen under the TVPRA as well as just child welfare principles. So, DHS will send us children where there is a felony conviction. Under the TVPRA, there are certain ones, especially violent crimes, where there is a concern about child welfare, where an individual claims to be a parent but isn't a parent. So, we get those.

In addition, my understanding is we get a small number of children at this point still where local officials use their

discretion to prosecute the parent for a felony violation of immigration laws, only felony. We may have received some where it appears it was based only on a misdemeanor offense and prosecution. That is not the policy, is my understanding. I think our people, sometimes we don't always get full information why they were separated and sent to us. And so, I think, in fairness, some of our people have expressed concern about some cases saying, ``Why is this child being sent to us? I don't quite know and understand why you separated them. And does it" --

Ms. Eshoo. I think your time has expired.

Secretary Azar. All of that. All right.

Ms. DeGette. Thank you. Madam Chair, I would just ask unanimous consent to place this New York Times article in the record. And also, we will be sending followup questions. I would appreciate if the Secretary could answer them.

Ms. Eshoo. So ordered.

Ms. Eshoo. Now I would like to recognize the gentleman from Kentucky, Mr. Guthrie, for 5 minutes.

Mr. Guthrie. Thank you, Madam Chair. I appreciate it very much.

And just to reiterate what was said, because I was going to point this out, the decision to separate parents from their children, the immigration enforcement decisions are made by the Department of Justice and carried out by DHS. My understanding is HHS hasn't separated a single child. And while I do support strong enforcement of our borders by DHS and the Justice Department, I do not support separating families from their children. I don't know of anyone here that supports separating families from children. We want to keep children together.

In a previous hearing, there were some allegations brought up about HHS, ORR, so within your Department. So, I just want to bring these up.

And so, recent reports have detailed allegations of abuse, including sexual abuse, of minors in ORR facilities over the past four years. This was an issue that this committee examined in 2014, upon learning of abuse detailed and reports published by the Houston Chronicle. I believe Dr. Burgess led that. And we remain concerned about recent reports.

What is ORR's process for reporting and investigating sexual abuse allegations? And does this process differ, depending on

if the allegations are between two unaccompanied minors versus an unaccompanied child and an adult staff member?

Secretary Azar. Yes, thank you. And obviously, any allegation of abuse or neglect against a child has to be taken very seriously, and especially sexual misconduct or abuses, absolutely unacceptable. And we want to work with you and make sure our processes and procedures protect against that.

We receive three types of sexual misconduct into that group of about 1,000 a year of reports that we have gotten over the last four years, including in the previous administration. There is inappropriate sexual behavior. That can be as little as a child saying something inappropriate to another child, inappropriate touching. It can be sexual harassment. It could be child on child or, most seriously, sexual abuse.

We received over the last four years, when we have had about 180-289 thousand children in that period, 178 allegations of sexual abuse of adult-on-child, staff member issues. Those sexual misconduct allegations must be reported to ORR within four hours. Sexual abuse cases must be reported to federal, state, local law enforcement officials, child safety welfare individuals, for investigation.

ORR received these investigations. We have put in place a full-time prevention of sexual abuse coordinator in this administration. We have put together a committee to review

allegations and ensure proper oversight. We receive reports on any developments in the case within 24 hours. So, we try to aggressively pursue that. If we can improve our procedures, we are welcome to be a learning organization and get better and better at this. We do not want any of these cases ever to happen.

Mr. Guthrie. To clarify, it was in another committee and with a different Secretary. And I know you have answered some questions in other departments. So, they were asked about what is going on in your Department. So, I just wanted to clarify.

Recently, there has been some incorrect information regarding who the allegations are made against. When we say ``staff," allegations against staff, does that mean HHS staff or ORR staff or an appointee or a contractee's staff?

Secretary Azar. Thank you for asking for that clarification. These are allegations, where it involves staff, it would be staff of grantees. These are the nonprofit entities that run the approximately 100 facilities that we have to care for children. Obviously, still, we have oversight. We want a safe environment. We have to investigate. So, it is not to diminish in any way responsibility that we have to ensure a safe environment. But, to my knowledge, I am not aware of any allegations against an actual HHS employee or ORR employee with regard to these children.

Mr. Guthrie. When you see this -- so, walk me through the

process of -- I know it may not get to your level, but what happens? I mean, what happens? So, we understand how these children are being protected. I know that you want, we all want the children to be protected, and obviously, you do as well. So, how do you react when your cabinet -- well, I won't say ``cabinets," what we call them in Kentucky -- your Department react when you have an allegation?

Secretary Azar. So, the process, especially when we get a sexual abuse allegation, is that the grantee is required to alert immediately child protective services and state officials for potential prosecution and investigation for child welfare. We are alerted within four hours. That goes to this national sexual abuse prevention coordinator.

We have in each of our grantee facilities actually a hotline. It is like a telephone booth. If you visit our facilities, you should see that, where a child may make a claim of sexual misconduct through that reporting hotline to make sure we learn of it immediately. Then, we conduct, of course, the regular oversight, and we take, I hope we take swift, appropriate, remedial action anytime there is a finding of inappropriate conduct.

Mr. Guthrie. I believe there are three contractors -- I am probably out of time -- but three contractors that the most allegations have been against. Has anything happened with those

three contractors?

Secretary Azar. I would say most of the allegations you have heard about involve a contractor in the Arizona area. In that instance, we shut down before anything was public. There was a pulling-hair incident that you might have seen a video of. Before that was ever public, we actually shut that facility down. We pulled our children out of it. We shut another facility down, I believe, pulled children out of it. We stopped placement of children in the other six facilities of that grantee, revoked their licensure.

And for any facilities to come back online, they would have to go through the state licensing procedure recertification, as well as ORR being satisfied that the leadership, policies, practices, everything had changed sufficiently for that, because we really have to ensure the safety of our children.

Mr. Guthrie. Okay. I thank the chair for her indulgence.

And thank you for your answers. I appreciate that. Thank you.

Ms. Eshoo. I thank the gentleman for his important questions. Now the ever-patient, ever-present Ms. Schakowsky from Illinois is recognize for 5 minutes.

Ms. Schakowsky. I thank the chair for allowing me to wave on. This is such an important issue.

According to the Government Accountability Office, months

before the Attorney General's April 2018 zero tolerance policy memo was issued, the Office of Refugee Resettlement saw a tenfold increase in the number of children who were separated from their parents. Furthermore, ORR officials told GAO that, a few months prior to the April 2018 zero tolerance memo, they considered planning for a continued increase in the separated children, but HHS leaders advised them not to engage in such planning.

So, Secretary Azar, were you aware that ORR officials were seeing a tenfold increase in the number of children who were separated from their parents?

Secretary Azar. I was not. I wasn't actually aware of an issue of separating children at the time really until we got into that May timeframe.

Ms. Schakowsky. I heard what you said, but, according to Commander White's testimony in front of this very committee, the Oversight and Investigations Subcommittee, though, the HHS leaders who told him not to plan for continued increase in separated children were Scott Lloyd, the head of ORR, and Maggie Wynne, your counsel for human services policy.

So, Secretary Azar, before the issuance of the zero tolerance policy, did Mr. Lloyd or Ms. Wynne ever discuss family separation with you?

Secretary Azar. Not to my knowledge. And I am disappointed that I didn't know that. I am disappointed they did not tell

me if they were engaged in --

Ms. Schakowsky. And has there been any consequence for them for not telling you something like separating children?

Secretary Azar. So, the issue is what would we have done differently, of course. I am concerned --

Ms. Schakowsky. Stop separating children is one idea.

Secretary Azar. First, we don't separate children. But the other is --

Ms. Schakowsky. Whoa. Go back to that.

Secretary Azar. We don't at HHS separate children.

Ms. Schakowsky. I see.

Secretary Azar. We have never -- we at HHS do not separate children.

Ms. Schakowsky. I know.

Secretary Azar. We receive children sent to us.

Ms. Schakowsky. Yes.

Secretary Azar. And we just try to care for them the best we can.

Ms. Schakowsky. Stop the policy though?

Secretary Azar. I'm sorry?

Ms. Schakowsky. You could have stopped the policy in some way, made a stink about it?

Secretary Azar. Correct. If I had been alerted to it, I could have raised objections and concerns, absolutely. And I

wish we had had more knowledge flow, and I wish more people had been engaged in these issues, absolutely. Of course.

Ms. Schakowsky. So, once you found out about all this, have you done anything at all in terms of raising this issue?

Secretary Azar. So, once we found out about it in May, we scrambled immediately towards dealing with the issues that we were dealing with. What I told our team, I convened our team, and I said, because I was seeing the same press stories you were seeing, and I was very disturbed by it, I said, ``I want every child to know where their parent is. I want every parent to know where their child is. I want every parent and child in regular communication, telephone or Skype. And I want us to begin an immediate reunification process to get them outplaced with sponsorship."

Now we use reunification differently than the later Judge Sabraw order. Reunification means placing, often with a level 1 or level 2 sponsor, in the homeland. And so, I pulled in our Assistant Secretary for Preparedness and Response to add logistics capabilities on top of our normal --

Ms. Schakowsky. Reclaiming my time, so tell me, Secretary Azar, as this nation's top health official, after separation began taking place, did you ever attempt to just put your foot down and stand up for the children, and tell DOJ, DHS, or the White House, that separation should be stopped?

Secretary Azar. All of that was preempted. The President, on January 22nd, issued his Executive Order stopping separations. And at that point, we moved immediately towards compliance with the June 26th court order and reunifications. All of our efforts were focused on that.

Ms. Schakowsky. Well, you say that, but did you read The New York Times on Sunday?

Secretary Azar. As I mentioned to Congresswoman DeGette, the separations that are currently occurring, to my knowledge -- again, I don't separate children -- are the types of separations that are normally happening for child welfare. They are from felony violations for child welfare, lack of parentage. There can be some felony prosecutions. I believe those are fairly rare.

Ms. Schakowsky. Okay. Well, let me quote. Let me tell you what some of your staff said. Staff members have in some cases raised questions with Border Patrol agents about separations with what appears to be little or no justification.

Secretary Azar. And I am glad they are doing so, and I encourage them to do so. We don't always get -- sometimes there is law enforcement sensitive information --

Ms. Schakowsky. So, what are you doing? What are you doing? People, American people are horrified by this. They see this, I see this as state-sponsored child abuse, I would say even state-sponsored kidnapping, children being taken away from their

parents, hundreds, maybe thousands of children. And it's continuing. I want to know what you are doing, a sense of urgency to come from you about what you are doing about stopping this.

Secretary Azar. I will not stop or advocate DHS to stop separating children from individuals who present a harm for child welfare. And if that is what is occurring, and that is what should be occurring --

Ms. Schakowsky. Okay, but you are the child welfare agency.

Secretary Azar. That is what I will stand up for.

Ms. Schakowsky. And you need to find out if these are legitimate child -- because --

Secretary Azar. And that is what I --

Ms. Schakowsky. -- it is also said that some of your staff found that the border agents said, ``No, we're not doing anything about this. We are going to separate the children." That is in that article. Read it.

Ms. Eshoo. The gentlelady's time has expired. The gentleman, the ranking member of the full committee, Mr. Walden.

Mr. Walden. From Oregon. Thank you, Madam Chair. I appreciate it.

Mr. Secretary, thanks for being here and taking on these tough questions. We appreciate it.

And I want to go back to part of this again to make clear that your professionals do not separate children?

Secretary Azar. That is correct. We do not separate children.

Mr. Walden. And tell me, how many children show up at these ORR facilities on a given day? I mean, you probably get some count. And you don't control that flow, right?

Secretary Azar. We have no control over the flow of children to us. We currently have 11,668 children in our care. We received the other day, the last report we received, 229 children. We have seen rates up --

Mr. Walden. In a given 24-hour period?

Secretary Azar. In a day. In a day. We are seeing rates -- it is surging -- we are seeing rates upwards of 300 children coming over a day now. It is 120 percent increase in unaccompanied alien children crossing the border and being sent to us from a year ago February. We are in a crisis situation.

Mr. Walden. And these children that are coming across, you say unaccompanied?

Secretary Azar. Unaccompanied. This is a 12-year-old girl walking across the border or a coyote shoving her across the border by herself.

Mr. Walden. So, they have been separated from their parents --

Secretary Azar. Their parents separating them by sending them here or they ran away on their own up to here. They are

coming here by themselves. They are unaccompanied. And then, our job is to take care of them and try to find them some relative that, hopefully, is here in the states that we can vet and place them with that person who is responsible --

Mr. Walden. And in the prior administration, didn't we learn that there were times where children, unaccompanied, were put with the wrong people?

Secretary Azar. Yes. Yes. Unfortunately, we try to do as good a job as we can vetting individuals, the family members and others that we place as sponsors. But, yes, in the prior administration, there was one instance that became quite a cause celebre. The permanent Subcommittee on Investigations in the Senate held inquiries around children that Senator Portman was very focused on, children sent to sponsors in Ohio, who ended up actually with traffickers and working as, essentially, trafficked labor at an egg processing plant, if I remember correctly.

Mr. Walden. So, is that because they were pushed out of the ORR system into the wrong hands too fast?

Secretary Azar. Obviously, the screening process and vetting process on sponsors failed.

Mr. Walden. And have you changed anything to make sure that is not happening on your watch?

Secretary Azar. So, we try to ensure enhanced vetting of

any individual that we put children with. We have case managers that work with us and with the grantees that take on these children's cases. And we vet the individuals. We fingerprint them. We fingerprint others as necessary, for instance, other household members. We send them for FBI background checks. We do common public record checks. I think we can check the child abuse files on them. We learn immigration status on them because that can be a relevant factor. For instance, placing a child with someone who is in the middle of a removal proceeding, that wouldn't be a stable environment. So, we are constantly trying to improve the quality of our vetting process to place the children in a safe environment.

Mr. Walden. And during that whole process, do these kids have the opportunity to talk to their families back in their home countries?

Secretary Azar. Oh, yes. Yes. In fact --

Mr. Walden. How often?

Secretary Azar. I believe they are required to speak, to have the opportunity to speak at least twice a week. And we try to --

Mr. Walden. They have to pay for those calls?

Secretary Azar. No. No, no. We pay for that. And they have limited access to their attorneys, and they --

Mr. Walden. Do they get access to any kind of health care?

Secretary Azar. They get free health care, free mental health care, free vision.

Mr. Walden. How often do they get mental health services?

Secretary Azar. They are assessed for their mental health needs within 24 hours of arriving at an ORR intake facility.

Mr. Walden. Within 24 hours, they see a mental health counselor?

Secretary Azar. Yes.

Mr. Walden. And how often do they get access to health services?

Secretary Azar. They also receive that care immediately. I believe within 48 hours they are vaccinated and receive the suite of CDC vaccinations if they do not have documentation of prior vaccination. And then, we provide ongoing health care, including emergency services.

Mr. Walden. What about educational services?

Secretary Azar. We provide them with education services in all of our facilities, and -- yes.

Mr. Walden. Have you ever gone down to one of these facilities and met with these kids?

Secretary Azar. I have, indeed. I meet with the children when I am there. I met with the student council when I was down at the Homestead facility.

Mr. Walden. Wait a minute. They have student councils?

Secretary Azar. They have an elected student council who --

Mr. Walden. And what are the student councils? Are they free to tell you the good, bad, ugly?

Secretary Azar. I beg them, I beg them, tell me any complaints and concerns that you have.

Mr. Walden. What are their complaints?

Secretary Azar. Well, there were three themes. The first thing they said was, ``We miss our parents who sent us here." The second thing they said was, ``We are grateful t America. We are safe and secure for the first times in our lives." It is actually heartwarming to see the gratitude on these beautiful children's faces. It was just such gratitude. And even any complaint they had, one girl wanted better sneakers. She felt so guilty saying it because she feels such gratitude to this country.

Mr. Walden. What about food?

Secretary Azar. They want pizza night. They want pizza night more often. That's the most common thing they say. They don't like our breakfast because they have to comply with the federal nutrition standards. And so, they do complain about the breakfast.

Mr. Walden. They are like other teenagers then?

Secretary Azar. Yes.

Mr. Walden. Yes.

Secretary Azar. Yes, yes.

Mr. Walden. All right. My time has expired, Madam Chairman. Thank you.

And, Mr. Secretary, thank you for being here.

Ms. DeGette. [presiding] Thank you. Thank you very much, Mr. Walden.

The chair now recognizes the chairman of the full committee, Mr. Pallone, for 5 minutes.

The Chairman. Thank you, Madam Chair.

I just wanted to explore, Mr. Secretary, the lessons learned from the family separation policy to see if we can figure out what went wrong.

But, first, let me mention an issue of documentation. You know, I am very frustrated with the lack of documentation on this and other issues, as you know from my previous questions. The committee sent you a letter nearly two months ago requesting documents relating to family separations. What few documents we have received, sir, have been largely unresponsive. And in these cases, in these productions that we have received from you, we have received little substance, including very few communications from key HHS leaders.

One weekly production, in other words, documents, included almost 800 pages, but only 14 of those pages was responsive to

our request. Another time, the weekly production consisted of only seven pages of documents. And I think it is now fair to ask, what is HHS hiding? Mr. Secretary, we have been working with HHS in good faith, but our patience has really run out. So, what explains this slow production? Are there certain documents you don't want us to see? I know, previously, you mentioned executive privilege. Would you commit today to fully cooperate with this investigation and produce all of our requested documents related to family separations?

Secretary Azar. We are certainly working to do so. I believe we have produced over 2800 pages of materials. We are doing it on a rolling basis.

The Chairman. But very little of it responds to our questions, you know, on family separation.

Secretary Azar. I am not personally sitting and reviewing each document that is going over. So, I can't comment on that. I want to be cooperative. I want you to get the materials you need to do your job. There may be limited areas where we can provide materials to you or have to have an accommodation, an appropriate accommodation discussion. But your oversight is appropriate. We want --

The Chairman. Just please --

Secretary Azar. I assure you I want to do the lessons learned on this. I want to learn how we can do better always.

The Chairman. Well, just please get back to us with the requested documents about family separation and responsive to our request.

At our hearing last month on this topic, we heard from child welfare experts about the decades of research showing that family separations lead to toxic stress. There is often long-term traumatic consequences. Countless other organizations have spoken out about this harm.

Mr. Secretary, why was this misguided policy allowed to engulf HHS and harm both children and their families and the reputation of this critical program, if you would?

Secretary Azar. I share the concerns about child welfare, and I especially share the concerns that Commander White, who spoke to your committee -- I have just the absolute highest respect and regard for Commander White and the advice --

The Chairman. Well, what is the reason why this was allowed to continue without -- I mean, you agree that it wasn't good.

Secretary Azar. The President's Executive Order on June 22nd was able to shortcircuit that right as we were in the throes of this. I focused immediately my energy on those three priorities I talked about, which is just ameliorating harm as quickly as possible, which was kids know where parents are; parents know where kids are. Get them in contact and get them placed, reunified or placed with sponsors as quickly as possible.

And then, the Executive Order came along, and all of our energies switched over -- that stopped -- and switched over towards Judge Sabraw's order and compliance, which was a full-court press to do that. So, I think the timing didn't really facilitate that, but the concerns are absolutely valid around child welfare. I share them. I said at the time nobody wants children separated from their parents.

The Chairman. No, I know, and I can't help, you know, there is that quote on the wall at your headquarters from Hubert Humphrey where he said, ``the moral test of a government is how that government treats those are in the dawn of life, the children; the twilight of life, the elderly; and the shadows of life, the sick, the needy and the handicapped."

I mean, you don't believe that this policy past the moral test that Vice President Humphrey spoke of? I mean, you would agree, right?

Secretary Azar. I absolutely share the concern about child welfare, of separating children. I can't speak to the questions of enforcing. There are significant issues, though, about exempting someone. As long as Congress has the law on the books making it crime to cross our border, there are significant questions that this Congress has to focus on about exempting somebody from those laws simply because they have a child with them. That is a real concern.

The Chairman. I understand, but --

Secretary Azar. As a lawyer, it is a concern I have.

The Chairman. All I really want is an assurance today. Because I don't know if I am the last person; I think I might be. But can you assure us today that wholesale family separations will never happen again under your watch?

Secretary Azar. I will certainly advocate for the child welfare. There are three major concerns I have. One is child welfare. The second is the operational concerns that you raised about our program. The third is the reputational harm --

The Chairman. I just want an assurance that this kind of wholesale family separation is never going to happen again under your watch. Can you just say, answer that?

Secretary Azar. Of course, I am not the President. I do not get the final judgment.

The Chairman. No, just you.

Secretary Azar. I can tell you my perspective is I will always advocate for the child welfare concerns, the reputational concerns, and the operational concerns of our program.

The Chairman. No, I don't think that answers the question, but whatever.

Thank you, Madam Chair.

Ms. DeGette. I would just take a moment to remind the witness that, if someone is coming across the border as a refugee,

that is a legal entry.

All right. The chair would now recognize Dr. Burgess for 5 minutes.

Mr. Burgess. Thank you.

And thank you, Mr. Secretary, for spending the day with us.

I am going to mostly do the talking at this point. Feel free to interject whatever you may wish.

First off, Madam Chairwoman, I am going to ask unanimous consent to place into the record a newspaper article from February 19th, 2019. The title of the article is, ``Texan Republican Rejects Democrats' Criticism of the Homestead Facility for Migrant Kids". I visited the facility, along with four of your colleagues, in February.

You know, this was odd because they had a press conference after the visit, but wouldn't let me participate in the press conference. So, I actually called one of the reporters and provided a different perspective from what was reported.

But I would like to place this article in the record.

Ms. DeGette. Without objection, the article is admitted.

[The information follows:]

********** COMMITTEE INSERT 2**********

Mr. Burgess. I went to the Central American countries that are primarily involved with most of the children that are coming over. And just so people understand what is going on here, a family will decide to send their child north because perhaps they have other family members who have already made the trip and they want their child to go north.

I actually asked Democrats to go with me on that CODEL. I couldn't get anyone to accompany me.

One of the things that I learned that really concerns me is that it costs $6 to $10 thousand for a child to make that journey. That is no small sum of money in a country that is relatively poor. And I asked the question, ``Where do they get the money to make this journey?" I was told that they borrow it from the bank. They borrow it from the bank, putting their home or their farm up as collateral. I don't know, this doesn't sound like a good system to me.

Now part of that Homestead visit, I also went to the Bryan Walsh Children's Village that the Democrats did not go. That is a permanent facility that is down in Florida. One of the things that struck me about the Bryan Walsh Children's Village is they have got a big mural that they have drawn on the outside of one of the buildings. It is a mural of a train with children sitting on top of it. It is not like a ride at an amusement park. This is ``la Bestia". This is how those children get from Central

America. They are brought by traffickers on the top of a train through the deserts of Central Mexico and deposited at our border.

They are, then, brought across the river in the case of Texas. They are brought across the river by a coyote who leaves them in a small lot of people, and then, hopes that Customs and Border Patrol will find them before they dehydrate or burn under the Texas sun.

It is not a good system that is being set up. And I cannot imagine why people wouldn't want that system to not exist anymore. Why would we continue to provide the magnet for people to want to make that dangerous journey or, worse yet, send their child on that dangerous journey?

Now, Secretary Azar, during a House Judiciary Committee hearing on February 26th, there was, unfortunately, a gross mischaracterization of the work being done at HHS to care for unaccompanied alien children. And a member on the other side of the dias on the Judiciary Committee stated that, ``ORR created an environment of systemic sexual assaults by HHS staff on unaccompanied alien children." Close quote.

So, that accusation is false and it was made without this member, to the best of my knowledge, having ever visited an ORR facility. His comments discredit the efforts by ORR employees to deal with problems, and these problems date back to a previous administration. They weren't created when Donald Trump took his

hand off the Bible.

So, Madam Chair, I have a letter that was written by Jonathan Hayes to this member of the Judiciary Committee, characterizing the remarks that were made and asking for an apology. And I ask unanimous consent to insert this letter into the record. And I would, further, ask that this committee ask Representative Deutch to issue an apology to the men and women at ORR and HHS who work every day to see that these children are well taken care of.

And I will yield back my time.

But I do ask unanimous consent --

Ms. Eshoo. [presiding] That unanimous consent is not approved.

Mr. Burgess. Is not approved?

Ms. Eshoo. Is not approved.

Mr. Burgess. You are not going to put this letter into the record?

Ms. Eshoo. Is approved. I am sorry.

Yes, it is a letter condemning another Member, and I am not going to pursue taking the words down, but I am going to draw a line and not accept it for the record.

Mr. Burgess. Madam Chair, could I appeal the ruling of the chair?

Ms. Eshoo. Let it remain -- well, if you want to do that,

you may, but I am not going to put those words in the record. I don't think they are fit for the record. And you have been in this chair, Mr. Burgess, and I think that, were you to hear me making that request, that you would do the same thing.

Mr. Burgess. If it is any consolation for you, they are already in the record of the Rules Committee from yesterday.

Ms. Eshoo. All right. Well, are you finished with your questioning?

Secretary Azar. Madam Chairwoman? Madam Chairwoman?

Ms. Eshoo. Who is asking for --

Secretary Azar. Me, upfront.

[Laughter.]

Ms. Eshoo. Oh, I am sorry. I am sorry.

Secretary Azar. I am terribly sorry to interrupt.

If I could, I just wanted to clarify, I think in response to Chairman Pallone, when we were speaking, I made reference to approximately 2800 documents. My staff informs me I was incorrect. It is approximately 2,080 pages. I just wanted to be clear that they have corrected me. I made a mistake in my statement there, and I wanted to be sure to get that on the record. I am sorry about that. I apologize.

Ms. Eshoo. You have got good staff behind you --

Secretary Azar. I have got a good team.

Ms. Eshoo. -- giving you the notes to make the correction.

Secretary Azar. Thank you.

Ms. Eshoo. So noted and appreciated.

Hardly anyone is left, but I still want to put out the reminder that members have 10 business days to submit their additional questions for the record.

And, Mr. Secretary, there were many requests and you made several offers to provide the information that was requested. Please do that, and also respond promptly to the questions that are going to be submitted to you by members.

I just want to close this hearing. It has been a long one. We thank you, Mr. Secretary.

It is the budget of our nation, and the budget of our nation is a statement of our national values. And there have been those that have supported some of the things that are in the budget. You have also heard those that have spoken out where they believe it doesn't meet our national values.

I would just ask you to do the following: and that is, to go online and tap in President Ronald Reagan's last speech as President of the United States. It is one of the most magnificent set of remarks I have ever heard. It is a love letter to immigrants. Call me after you have watched that, and I want to have a discussion with you about it.

With that, the committee has concluded its business for today and the end of the hearing.

Thank you.

[Whereupon, at 5:03 p.m., the subcommittee was adjourned.]