



COMMITTEE ON
ENERGY & COMMERCE

CHAIRMAN FRANK PALLONE, JR.

MEMORANDUM

September 18, 2020

To: Subcommittee on Health Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on “Health Care Lifeline: The Affordable Care Act and the COVID-19 Pandemic”

On Wednesday, September 23, 2020, at 10 a.m. (EDT), via Cisco Webex online video conferencing, the Subcommittee on Health will hold a hearing entitled, “Health Care Lifeline: The Affordable Care Act and the COVID-19 Pandemic.”

I. BACKGROUND

The Affordable Care Act (ACA) established state and federal insurance marketplaces to increase access to high quality health insurance coverage. To help Americans afford their health insurance premiums, the law provided tax subsidies to individuals and families who earn up to 400 percent of the federal poverty level (FPL) on a sliding scale based on income. The ACA also included comprehensive consumer protections to ensure that all Americans are able to obtain health coverage regardless of health status or a pre-existing condition.

In addition, the ACA allowed states to expand Medicaid eligibility to nonelderly, childless adults with incomes below 138 percent of the FPL. The federal medical assistance percentage (FMAP) for the expansion population is more generous than the regular state FMAP. The expansion FMAP is 90 percent, meaning that the federal government pays 90 percent of the cost of care for beneficiaries in the expansion group. The expansion was originally mandatory, however, in *NFIB v. Sebelius*, the Supreme Court ruled that states’ decisions to expand Medicaid under the ACA are optional.

Currently, 38 states and the District of Columbia have opted to expand.¹ If the remaining states were to expand Medicaid, it is estimated that two million individuals, who are currently uninsured, would gain coverage.²

The ACA significantly reduced the uninsured rate and provided health insurance coverage to approximately 20 million Americans.³ The number of uninsured individuals decreased from about 46.5 million in 2010, to a historic low of approximately 27 million in 2016.⁴ However, beginning in 2017, these trends reversed, and the number of uninsured individuals climbed to 29.6 million in 2019, the highest number recorded in four years.⁵ Under the Trump Administration, the number of uninsured Americans has increased by 2.3 million.⁶ More than half of those who remain uninsured are eligible for either the ACA's Medicaid expansion or subsidies.⁷

The Trump Administration has taken several steps that resulted in coverage losses and increased premiums.⁸ A study by the Kaiser Family Foundation estimates that 2019 Marketplace premiums were 16 percent higher than they otherwise would be due to the Administration's actions to eliminate the law's cost-sharing subsidies, expand the availability of short-term limited

¹ Kaiser Family Foundation, *Status of State Medicaid Expansion Decisions: Interactive Map* (Aug. 17, 2020) (www.kff.org/medicaid/issue-brief/status-of-state-medicaid-expansion-decisions-interactive-map/).

² Kaiser Family Foundation, *The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid* (Jan. 14, 2020) (www.kff.org/medicaid/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid/).

³ Center on Budget and Policy Priorities, *Chart Book: Accomplishments of Affordable Care Act* (Mar. 19, 2020) (www.cbpp.org/research/health/chart-book-accomplishments-of-affordable-care-act).

⁴ Kaiser Family Foundation, *Key Facts about the Uninsured Population* (Dec. 13, 2019) (www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/).

⁵ U.S. Census Bureau, *Income, Poverty and Health Insurance Coverage in the United States: 2019* (Sept. 15, 2020) (www.census.gov/newsroom/press-releases/2020/income-poverty.html) (press release).

⁶ *Id.*

⁷ Kaiser Family Foundation, *The Uninsured and the ACA: A Primer - Key Facts about Health Insurance and the Uninsured amidst Changes to the Affordable Care Act* (Jan. 2019) (www.kff.org/report-section/the-uninsured-and-the-aca-a-primer-key-facts-about-health-insurance-and-the-uninsured-amidst-changes-to-the-affordable-care-act-how-many-people-are-uninsured/).

⁸ USC Brookings Shaeffer Initiative for Health Policy, *How Would Individual Market Premiums Change in 2019 in a Stable Policy Environment?* (Aug. 2018) (www.brookings.edu/wp-content/uploads/2018/08/Individual-Market-Premium-Outlook-20191.pdf).

duration insurance (STLDI), and repeal of the individual mandate.⁹ Additionally, the Trump Administration has reduced funding for the ACA's Open Enrollment consumer outreach and enrollment educational activities from \$100 million to \$10 million.¹⁰ The Trump Administration has also reduced funding for the ACA's Navigator program from \$63 million to \$10 million.¹¹ There has been a significant decline in new enrollment under the Trump Administration.¹²

II. THE COVID-19 PANDEMIC

The coronavirus disease of 2019 (COVID-19) pandemic has threatened the health and economic security of millions throughout the country. Since mid-March, more than 40 million Americans have filed for unemployment.¹³ The rapid increase in unemployment has resulted in millions of people losing employer-sponsored health insurance.¹⁴ A study by the Kaiser Family Foundation estimates that more than 20 million people who lose employer-sponsored health coverage may become eligible for either Medicaid or Marketplace coverage.¹⁵ However, the

⁹ Kaiser Family Foundation, *How Repeal of the Individual Mandate and Expansion of Loosely Regulated Plans are Affecting 2019 Premiums* (Oct. 26, 2018) (www.kff.org/health-costs/issue-brief/how-repeal-of-the-individual-mandate-and-expansion-of-loosely-regulated-plans-are-affecting-2019-premiums/).

¹⁰ Centers for Medicare and Medicaid Services, *FEDERAL HEALTH INSURANCE EXCHANGE 2020 OPEN ENROLLMENT* (Oct. 25, 2019) (www.cms.gov/newsroom/fact-sheets/federal-health-insurance-exchange-2020-open-enrollment).

¹¹ Centers for Medicare and Medicaid Services, *In-Person Assistance in the Health Insurance Marketplaces* (www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/assistance) (accessed Sept. 17, 2020).

¹² Centers for Medicare and Medicaid Services, *HEALTH INSURANCE MARKETPLACES 2017 OPEN ENROLLMENT PERIOD FINAL ENROLLMENT REPORT: NOVEMBER 1, 2016 – JANUARY 31, 2017* (Mar. 15, 2017) (www.cms.gov/newsroom/fact-sheets/health-insurance-marketplaces-2017-open-enrollment-period-final-enrollment-report-november-1-2016); Centers for Medicare and Medicaid Services, *2020 Federal Health Insurance Exchange Enrollment Period Final Weekly Enrollment Snapshot* (Jan. 8, 2020) (www.cms.gov/newsroom/fact-sheets/2020-federal-health-insurance-exchange-enrollment-period-final-weekly-enrollment-snapshot).

¹³ U.S. Employment and Training Administration, Initial Claims [ICSA], retrieved from FRED, Federal Reserve Bank of St. Louis (June 4, 2020) (fred.stlouisfed.org/series/ICSA).

¹⁴ Economic Policy Institute, *12 million people have likely lost employer-sponsored health insurance since February* (Aug. 26, 2020) (www.epi.org/press/12-million-people-have-likely-lost-employer-sponsored-health-insurance-since-february-policy-makers-should-work-to-delink-jobs-and-access-to-insurance-coverage-by-expanding-public-options/) (press release).

¹⁵ Kaiser Family Foundation. *As Unemployment Skyrockets, KFF Estimates More than 20 Million People Losing Job-Based Health Coverage Will Become Eligible for ACA Coverage through Medicaid or Marketplace Tax Credits* (May 13, 2020) (www.kff.org/coronavirus-covid-19/press-release/as-unemployment-skyrockets-kff-estimates-more-than-20-million-people-

Trump Administration did not establish a broad Special Enrollment Period (SEP) that would have allowed uninsured Americans on the federal marketplace to enroll in coverage.¹⁶ Under the current federal SEP policy, individuals who experience job loss or change in income are not necessarily eligible to enroll in coverage. Many state-based marketplaces (SBMs) established an emergency time limited SEP in response to the COVID-19 pandemic.¹⁷ SBMs that implemented an emergency SEP experienced a significant increase in enrollment.¹⁸ Connecticut, Rhode Island, and California all experienced more than 79 percent increase in enrollment in the first five months of 2020 compared to 2019.¹⁹

As with previous economic downturns that saw significant job loss, Medicaid enrollment has increased significantly during this same time period. Medicaid enrollment has gone up over eight percent since February.²⁰ As of May 2020, Medicaid enrollment had increased by 2.3 million, and current enrollment growth could be as high as 6 million beneficiaries.^{21,22}

III. CONGRESSIONAL ACTION

The Families First Coronavirus Response Act (FFCRA) was enacted on March 18, 2020. The law required individual and group market health plans, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP) to provide coverage of COVID-19 tests and related items and services without imposing any cost-sharing requirements, including deductibles, copayments, and coinsurance. The new law provided a new state option that allows states to extend Medicaid coverage for testing to the uninsured, fully paid for by the federal government. Currently, 19 states have taken up this option.²³ The FFCRA also temporarily increased the

losing-job-based-health-coverage-will-become-eligible-for-aca-coverage-through-medicaid-or-marketplace-tax-credits/).

¹⁶ Trump rejects Obamacare special enrollment period amid pandemic, *Politico* (Mar. 31, 2020) (www.politico.com/news/2020/03/31/trump-obamacare-coronavirus-157788).

¹⁷ Center on Budget and Policy Priorities, *Emergency Special Enrollment Period Would Boost Health Coverage Access at a Critical Time* (July 30, 2020) (www.cbpp.org/research/health/emergency-special-enrollment-period-would-boost-health-coverage-access-at-a-critical).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Center on Budget and Policy Priorities, *Medicaid Enrollment Continues to Rise* (Sept. 9, 2020) (www.cbpp.org/blog/medicaid-enrollment-continues-to-rise).

²¹ Kaiser Family Foundation, *Analysis of Recent National Trends in Medicaid and CHIP Enrollment* (Aug. 24, 2020) (www.kff.org/coronavirus-covid-19/issue-brief/analysis-of-recent-national-trends-in-medicaid-and-chip-enrollment/).

²² *See* note 20.

²³ Kaiser Family Foundation, *Medicaid Emergency Authority Tracker: Approved State Actions to Address COVID-19* (Sept. 15, 2020) (www.kff.org/coronavirus-covid-19/issue-brief/medicaid-emergency-authority-tracker-approved-state-actions-to-address-covid-19/).

FMAP by 6.2 percentage points for all states and the territories, and increased the allotments to the territories.²⁴

The Heroes Act that was passed by the House of Representatives on May 15, 2020, included several provisions to address additional coverage, access, and funding gaps in response to the COVID-19 pandemic. The bill establishes a broad two-month Open Enrollment period to facilitate individuals who are uninsured to obtain coverage and provides funding for consumer outreach and enrollment educational activities. The Heroes Act requires individual and group market health plans, Medicaid, and CHIP to provide coverage of COVID-19 treatment at zero cost-sharing during the COVID-19 public health emergency. It would also allow state Medicaid programs to cover treatment and vaccines for COVID-19 to the uninsured fully paid for by the federal government.

The Heroes Act would also protect Americans who are losing their employer-provided health insurance by providing full premium subsidies, through January 2021, to individuals who are eligible for COBRA due to a layoff or reduction in hours, and for workers who have been furloughed but are still active in their employer-sponsored plan. In recognition of the additional financial strains facing state Medicaid programs, the Heroes Act would further increase the state FMAPs to 14 percentage points through June 30, 2021, and provide an additional ten percentage point FMAP increase for state expenditures on home- and community-based services (HCBS), which help beneficiaries receive the care they need in their homes, rather than an institution.²⁵

VI. WITNESSES

The following witnesses have been invited to testify:

Aviva Aron-Dine, Ph.D.
Vice President for Health Policy
Center on Budget and Policy Priorities

Dean Cameron
Director
Idaho Department of Insurance

Dr. Douglas Holtz-Eakin
President
American Action Forum

Peter Lee
Executive Director
Covered California

²⁴ Pub. L. No. 116-127 (2020).

²⁵ H.R. 6800.

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