

Congress of the United States
Washington, DC 20515

April 25, 2018

The Honorable John Kasich
Governor
State of Ohio
Riffe Center, 30th Floor
77 South High Street
Columbus, OH 43215

Dear Governor Kasich:

We write to urge you to reject partisan attacks on the Affordable Care Act (ACA) and continue to work across the aisle to protect our constituents' health insurance. Bipartisan solutions that reduce out of pocket health care costs for working families must be developed. Since the passage of the ACA, many Republicans have worked on a national and state level to undermine or eliminate the law despite the fact that millions already receive coverage through the ACA, including 940,627 individuals in Ohio, comprised of 710,500 Medicaid beneficiaries and 230,127 Marketplace enrollees.

The Trump Administration and Congressional Republicans are currently pushing policies that depress enrollment in health insurance, and raise premiums and out of pocket costs for middle class families. The Trump Administration cut funding for Marketplace advertising by 90 percent, slashed in-person assistance through the navigator program by 70% in Ohio and increased premiums for middle class families by unilaterally refusing to pay cost sharing reductions. These actions have had devastating consequences for working families. According to the latest data from Gallup, relative to 2016, 3.2 million less Americans had health insurance coverage during the first year of the Trump Administration.

We appreciate your efforts to stave off any Medicaid enrollment freezes in the state budget. As well as your sound judgement to continue allowing individuals to access treatment, recovery, and prevention through Medicaid coverage with the state legislature's pledged of \$170 million dollars for the opioid crisis. The support for each and every community in our state ravaged with this epidemic was welcome news and our delegation is grateful.

Unfortunately, on March 30, 2018, the Ohio Department of Insurance submitted an Affordable Care Act 1332 State Innovation Waiver application which would eliminate the individual mandate that requires most Americans to have health insurance or to pay a penalty. While Congress eliminated the financial penalty for lacking coverage, the mandate itself was not eliminated. This would not only skirt federal law, it will further destabilize the health insurance marketplace. This waiver application falsely assumes that Ohioans will still buy insurance and coverage will not change. However, if there is no mandate, there is no compliance effect and people will not behave identically. The State Innovation Waiver also fails to include any innovation or health care delivery program that will benefit Ohioans. The waiver acknowledges

that there is no intention to experiment or provide options to increase access to affordable, quality health care. By statute, State Innovation Waivers must provide coverage at least as comprehensive in covered benefits, as affordable, and as comparable in number of covered residents. The Congressional Budget Office estimates that without the individual mandate, the number of people with health insurance will decrease by 4 million in 2019 and by 13 million in 2027.¹ Eliminating the individual mandate and expanding short term plans have the potential to increase 2019 ACA-compliant nongroup insurance premiums by an average of 18.2 percent among the 43 states that do not prohibit or limit short term plans.²

The Ohio Department of Medicaid has also proposed a Group VIII Work Requirement and Community Engagement 1115 Demonstration Waiver on February 16, 2018. Not only is this extremely disappointing given your past support of the Medicaid expansion population, it also undercuts the statutory authority granted under Section 1115 of the Social Security Act. Imposing these policies contradicts Congressional intent by conditioning access to health care upon employment and related activities. It is clear that most Medicaid enrollees are working or cannot be reasonably expected to work, but this type of requirement would create needless red tape and administrative barriers that will ultimately result in individuals dropping the coverage to which they are entitled. Instituting a work requirement to such a small subset of this population raises the question of whether or not it is worth the cost and use of resources to screen and track the individuals who fall into this small minority.

Other actions by the Trump Administration and Congressional Republicans continue to destabilize the market and make coverage less affordable. The repeal of the individual mandate beginning in 2019 and proposed Trump Administration regulations on short-term limited-duration (STLD) plans and association health plans will further destabilize the individual market and raise costs for American families. According to a recent analysis conducted by the Urban Institute, the elimination of the individual mandate, coupled with the Administration's efforts to sabotage the ACA, will increase 2018 premiums by 18.2 percent on average in states that do not prohibit or limit short term plans, and will result in 6.4 million more people uninsured in 2019.³ The analysis estimates that the state of Ohio will see an estimated 34.7 percent increase in the number of uninsured if STLD plans are expanded. In addition, premiums in ACA compliant plans in Ohio would increase by 16.8 percent due to the expansion of STLD plans and the elimination of the individual mandate.

In the absence of a commitment from President Trump and the Republican-led Congress to protect Americans' access to health care, states can and must step up to ensure families are protected from crushing health care costs, by ensuring access to affordable insurance that covers needed benefits.

¹ Congressional Budget Office, *Repealing the Individual Health Insurance Mandate: An Updated Estimate*. (Nov. 2017) (<https://www.cbo.gov/publication/53300>)

² Linda J. Blumberg et. al, *The Potential Impact of Short-Term Limited-Duration Policies on Insurance Coverage, Premiums, and Federal Spending* (Feb. 2018) (www.urban.org/sites/default/files/publication/96781/stld_draft_0226_finalized_0.pdf).

³ Linda J. Blumberg et. al, *The Potential Impact of Short-Term Limited-Duration Policies on Insurance Coverage, Premiums, and Federal Spending* (Feb. 2018) (www.urban.org/sites/default/files/publication/96781/stld_draft_0226_finalized_0.pdf).

There are a number of actions at the state level that would help increase coverage and improve the affordability of care for families in our state that will also counteract the harmful work of Republicans in Washington. We urge you to work to implement some or all of these options to help ensure stability and lower costs for our residents. Four potential options are listed below:

Protect state residents by limiting the sale of sub-par junk insurance plans.

The Trump Administration has further weakened consumer protections by allowing plans to be sold that do not meet basic benefit or financial protection standards. These plans would return patients to the days where only upon illness did they discover their plans imposed unreasonable limits on coverage and excluded needed benefits. Between 2000 and 2002, approximately 200,000 consumers were left with more than \$200 million in unpaid bills because their association health plans became insolvent.⁴ In addition, expanding access to junk insurance plans negatively affects the risk pool in the ACA-compliant market, thereby increasing premiums for middle class families. While the Trump Administration has loosened federal regulations, strong state protections can prevent such plans from appearing in the state market to scam unknowing customers. For example, states could blunt the destabilizing effect of a proposed regulation on short-term limited duration plans by requiring that these plans comply with key consumer protections, or by limiting the duration of these plans and preventing renewals.⁵ Governors and Insurance Commissioners should act pre-emptively to keep bad actors out of the insurance market.

Boost coverage (and lower costs) by increasing outreach, enrollment and marketing.

States can increase efforts to connect consumers to coverage and increase awareness of the insurance marketplaces. While the Trump Administration dramatically cut the budget for marketing and outreach, and has refused to use funds designated for these purposes, states can and should redouble on the ground efforts, including marketing targeted at hard to reach groups. Awareness of the marketplaces and available financial assistance remain very low, and younger and healthier consumers are more likely to remain uninsured without significant advertising campaigns. Investments in outreach, enrollment and marketing help ensure a diverse risk pool, bringing premiums down for consumers. For instance, Covered California estimates that its extensive investment in marketing and outreach has translated into 6-8 percent lower premiums.⁶ States interested in conducting outreach could ask that federal funds currently not being used for their intended purposes be sent directly to the states for their own outreach and marketing efforts.

Protect consumers by ensuring their health plan provides essential health benefits, like hospital care, mental health and substance use disorder treatment, or prescription drug coverage.

⁴ Goe, C. L. *Non-ACA-Compliant Plans and the Risk of Market Segmentation* (2018, March) (https://insidehealthpolicy.com/sites/insidehealthpolicy.com/files/documents/2018/mar/he2018_0124.pdf)

⁵ Jeanne Lambrew et. al., *Recommended Actions For States to Protect Their Health Insurance Markets*, Health Affairs (Jan. 22, 2018) (www.healthaffairs.org/doi/10.1377/hblog20180117.926755/full).

⁶ Covered California, *Marketing Matters: Lessons From California to Promote Stability and Lower Costs in National and State Individual Insurance Markets* (Sept. 2017) (http://hbex.coveredca.com/data-research/library/CoveredCA_Marketing_Matters_9-17.pdf).

While Republican legislative attempts to undermine critical health benefits like maternity care and prescription drugs have not succeeded to date, the Trump Administration is considering steps that would allow plans to charge more for certain life-saving benefits or allow plans to exclude certain necessary benefits from coverage altogether. Many of the sub-par insurance plans are also exempt from requiring coverage of essential health benefits and are allowed to charge higher premiums based on rating factors like age, gender, geographic location, industry, and employment-based classifications. States and localities have the opportunity to demonstrate the importance of these essential health benefits and ensure equal access to needed care by passing laws that protect residents and enhance the intent of current law and regulations.

Use existing Affordable Care Act (ACA) authority to craft a reinsurance program to reduce health insurance premiums.

A number of states have sought State Innovation Waivers under Section 1332 of the ACA to create reinsurance funds to stabilize the individual market. These funds have the potential to protect consumers from dramatic premium increases by paying claims above a certain limit or paying for claims for certain specific high-cost conditions. Removing these claims or conditions through reinsurance allows plans to reduce premiums for other consumers.

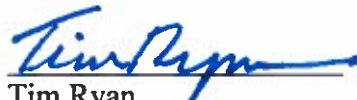
Republicans in Washington have proven to be incapable of crafting a replacement for the ACA that would increase coverage and lower costs for American families and they remain unwilling to seriously engage in bipartisan improvements to the ACA. For the sake of our constituents, we implore you to take further action to mitigate the impact of Washington Republican's harmful actions and inability to solve the problems that exist in our insurance markets today. Ohio does not currently have plans to limit these detrimental actions and to stabilize the insurance markets, but we are prepared to provide solutions that can work for the people of Ohio.

We stand ready to work with you and your administration to help make these options a reality. Thank you for your consideration.

Sincerely,



Marcy Kaptur
Member of Congress



Tim Ryan
Member of Congress



Marcia L. Fudge
Member of Congress



Joyce Beatty
Member of Congress