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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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<http://help.senate.gov>

October 22, 2019

The Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

Earlier this month, President Trump issued a proclamation that would allow the federal government to deny immigration visas to applicants who are unable to afford health care coverage. This new action adopts the worst of the Trump Administration's health care and immigration policies, and has the potential to block visas for two-thirds of those who apply for lawful permanent residence from abroad. In short, this policy could fundamentally reshape and limit future legal immigration by specifically targeting people with low-incomes. We strongly urge the Administration to rescind the proclamation. Additionally, we request documentation on any analysis conducted by the Department of Health and Human Services (HHS) of the effects of the proclamation.

The October 4, 2019 proclamation, set to go into effect just one month later on November 3, requires that future lawful permanent residents coming from abroad must be able to demonstrate to consular officials that they can purchase unsubsidized medical insurance within 30 days of entry into the United States.¹ Otherwise, the applicant must demonstrate they have the financial ability to pay for any foreseeable medical costs. "Approved health insurance" under the proclamation includes employer-sponsored plans, short-term limited duration insurance (STLDI) plans, association health plans, catastrophic coverage, Medicare, and family members' plans. Medicaid coverage for adults or qualified health plans purchased with the assistance of tax credits under the Affordable Care Act would not be accepted, even though Green Card holders are eligible for tax credits to afford the cost of coverage and Medicaid coverage if they meet certain criteria. Thus, this proclamation directly contravenes federal law and the intent of Congress that lawfully present individuals should be able to access affordable health care coverage.

According to the Migration Policy Institute, this proclamation could block up to two-thirds of those applying for lawful permanent residence in the United States from this pathway to legal

¹ <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-suspension-entry-immigrants-will-financially-burden-united-states-healthcare-system/>

immigration.² That means the proclamation could now prohibit approximately 375,000 immigrants every year from entering this country based on their health coverage status alone.

While the proclamation claims to be an effort to reduce the costs associated with uncompensated care – in addition to reducing broader health care costs – immigrants in fact account for a small share of uncompensated care costs in this country.³ Given that citizens make up the vast majority of the total uninsured population, it does not make sense to target just immigrants in efforts to reduce uncompensated care costs. Immigrants also tend to be younger and healthier and spend less on health care than non-immigrants.⁴

Under the guise of reducing health care costs, the President's proclamation is a direct attack on those who are most vulnerable, and on the health care system itself. This proclamation punishes middle- and low-income immigrants by going after health care benefits they are legally entitled to obtain. This action will make it extremely difficult for middle- and low-income immigrants to get necessary health care services, which reduce health care costs in the long-term. Specifically, those affected by the proclamation will be denied access to both tax credits, which help them purchase quality, affordable coverage, and to Medicaid. Instead, the proclamation will push them toward purchasing junk plans like STLDI that frequently do not cover necessary health care services. Insurance companies selling STLDI can deny coverage, charge higher premiums, and exclude benefits for individuals with pre-existing conditions. Many STLDI plans do not cover maternity care, prescription drugs, mental health care, and hospitalizations.⁵ Additionally, the Trump Administration's claim that it is protecting hospitals from the cost of uncompensated care rings hollow, following its many attempts to sabotage the health care system, leaving patients and hospitals to pay the bill. In fact, the American Hospital Association's comment letter on the short-term, "junk" plan rule noted the Trump Administration's expansion of junk plans would leave hospitals stuck with more uncompensated care, not less.⁶ The Trump Administration's efforts to promote illegal work requirements as a condition on Medicaid coverage, which are the subject of current litigation, would also increase uncompensated care costs and result in a loss of revenue for hospitals, particularly rural hospitals that are already facing challenges meeting the needs of their patients and communities.⁷

It is unclear whether the administration will offer immigrants any resources to make informed decisions about their coverage options. Meanwhile, this Administration has slashed the budget for culturally-competent marketplace navigators from \$63 million in 2016 to \$10 million in 2018.⁸ Additionally, the proclamation fails to address exactly how visa applicants are expected to

² <https://www.migrationpolicy.org/news/health-insurance-test-green-card-applicants-could-sharply-cut-future-us-legal-immigration>

³ <https://www.kff.org/disparities-policy/fact-sheet/president-trumps-proclamation-suspending-entry-for-immigrants-without-health-coverage/>

⁴ <https://www.kff.org/disparities-policy/fact-sheet/president-trumps-proclamation-suspending-entry-for-immigrants-without-health-coverage/>

⁵ <https://ccf.georgetown.edu/2018/07/30/coverage-that-doesnt-count-how-the-short-term-limited-duration-rule-could-lead-to-underinsurance/>

⁶ <https://www.aha.org/system/files/2018-04/180423-cl-short-term-limited-duration-insurance.pdf>

⁷ <https://www.commonwealthfund.org/press-release/2019/medicaid-work-requirements-could-weaken-hospital-finances>

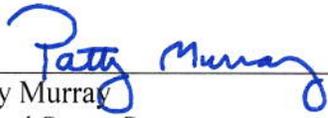
⁸ <https://www.kff.org/health-reform/issue-brief/data-note-further-reductions-in-navigator-funding-for-federal-marketplace-states/>

prove that they will secure health insurance or that they have the ability to cover their potential medical costs upon entering the United States. Coupled with the public charge rule, which federal courts have blocked from going into effect, the President's policies reflect a clear intent to burden the health care and immigration systems with unnecessary bureaucratic hurdles and high costs in order to deter low-income people from obtaining essential health care coverage and seeking refuge in this country.

President Trump's proclamation undermines the values that we stand for and are embedded in our health care and immigration systems. Health care is a right that should be available to all, especially those in need. The United States should be a beacon of opportunity for those who have faced hardships and violence in their home countries. In an effort to understand how the Administration reached the decision to adopt and implement this cruel policy, please answer the following questions by no later than November 5, 2019:

1. Prior to issuance of the proclamation, did HHS conduct any analysis of the costs and health care effects of the proclamation? If so, did these analyses examine:
 - a. Whether the proclamation would impact the U.S. health care system;
 - b. Whether the proclamation would impact immigrant communities;
 - c. Whether the proclamation would impact health care markets in individual states, including those states with the largest immigrant populations;
 - d. Whether excluding qualified health plans purchased with tax credits or coverage under Medicaid for adults from the definition of "approved health insurance" would affect the amount of uncompensated care provided by hospitals; and
 - e. Whether the inclusion of STLDI, catastrophic plans, or association health plans would affect the amount of uncompensated care provided by hospitals?
2. Has HHS worked with the Department of Homeland Security (DHS) or the Department of Justice (DOJ) to compile guidance or other written or electronic materials for federal employees or contractors tasked with implementing the proclamation? If so, please provide those documents.
3. What information will be provided to immigrants to assist them in determining the health coverage that meets the needs of themselves and their families? How will such information be communicated?
4. How does the federal government plan to assess whether an immigrant "possesses the financial resources to pay for reasonably foreseeable medical costs"? What guidance is HHS providing to consular officials who will be tasked with making that determination?
5. Did HHS assess whether 30 days is a sufficient time period to require proof of insurance coverage? If not, how was 30 days arrived at as the appropriate time?

Thank you in advance for your attention to this matter. If you have any questions, or would like to further discuss compliance with this request, please contact Elizabeth Letter with Senator Murray's HELP Committee Staff at 202-224-0767 and Lavanya Sridharan with Senator Wyden's staff at 202-224-5244.



Patty Murray
United States Senator



Ron Wyden
United States Senator