

United States Senate
WASHINGTON, DC 20510

October 27, 2016

Sylvia Mathews Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Burwell:

I write to express grave concern about the decision of the Department of Health and Human Services (HHS) to automatically enroll Americans into health insurance plans they did not choose. HHS's actions not only restrict thousands of families in their ability to make personal health care decisions, they also threaten to overload insurers, straining a system not designed for this added capacity. I seek a thorough explanation of this decision, including what analysis, if any, was made of its impact on America's health insurance landscape.

By automatically enrolling Americans in new health plans not of their choosing, HHS took personal health care decisions out of the hands of large numbers of consumers. First, it is shocking that the federal government would disclose the personal financial and health information of Americans without their permission or notice and without granting the opportunity to opt out of such activity. Further, HHS placed these consumers in a potentially financially disastrous situation. For mistakenly visiting their previous doctor, these enrollees could be hit with unaffordable out-of-network charges. Subsidies cannot be expected to provide enough relief to cover the cost of such a mistake. HHS's decision therefore jeopardizes both the health and welfare of the American people.

HHS's actions also significantly affect insurers. For insurers that have managed to survive in ObamaCare's Marketplace, this decision raises serious problems. These insurers expected a certain number of enrollees. HHS has added many more. This calls into question whether these insurers will be able to shoulder the burden. I am greatly troubled to hear from regulators in Nebraska that their input was disregarded, and, even worse, that HHS's actions may violate state law. A similar lack of vision and collaboration resulted in painful consequences for Nebraskans in the failure of CoOpportunity. HHS's decision threatens remaining insurers and holds dramatic, far-reaching repercussions for the health insurance landscape.

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From its beginning, ObamaCare's unintended consequences have harmed families and taxpayers. As HHS admitted in a brief from the Office of the Assistant Secretary for Planning and Evaluation, ObamaCare premiums climbed by an average of 25 percent this year. Consequently, our constituents, including lower-income families, single parents, and the elderly, are spending dramatically more on health care. This reality is a stark contrast to ObamaCare's stated goals and promises. It is worsened by HHS's continued inability to reasonably approach its failures, a bullheadedness that has clearly wasted taxpayer dollars. I believe HHS is repeating its past mistakes now through this automatic enrollment measure. I see little evidence HHS acted with regard for the long-term implications.

Therefore, I ask that you please provide the answers to the following questions, or additional information as specified, by December 2, 2016:

1. How many were automatically enrolled in plans they did not choose?
2. What actions were taken to notify those who were automatically enrolled in plans they did not choose?
3. What documentation or analysis did HHS perform on the solvency of insurers that must now provide coverage for automatic enrollees?
4. What documentation or analysis did HHS perform regarding potential violations of state laws?
5. Did HHS undertake any analysis of fraud, abuse, or waste that has occurred during a special enrollment period? If so, please provide that documentation or analysis.
6. What actions will HHS take to address fraud, abuse, and waste during future special enrollment periods?
7. What percent of automatic enrollees are able to see their previous doctor without facing an out-of-network charge?
8. What options exist for automatic enrollees to terminate coverage?

Thank you for your prompt attention to this matter.

Sincerely,



Deb Fischer
United States Senator