

ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-3641  
Minority (202) 225-2927

January 30, 2023

The Honorable Xavier Becerra  
Secretary  
Department of Health & Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Marty Walsh  
Secretary  
Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210

The Honorable Janet Yellen  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220

RE: Act on Short-Term Limited Duration Insurance Plans Before April 1, 2023

Dear Secretary Becerra, Secretary Walsh, and Secretary Yellen:

As Members of Congress who are supportive of affordable, high-quality, comprehensive health coverage, we write to ask the Department of Health and Human Services (HHS), Department of Labor, and Department of the Treasury to act immediately to roll back the Trump administration's troubling expansion of Short-Term Limited Duration Health Insurance (STLDI) plans, also known as "junk plans." It is essential that action is taken by March 31, 2023, when the *Families First Coronavirus Response Act* (FFCRA) continuous coverage protection ends, and the redetermination period begins for Medicaid and Children's Health Insurance Program (CHIP) beneficiaries.

STLDI plans are exempt from the critical consumer protections in the Affordable Care Act (ACA) and therefore present a threat to health and financial well-being of American families. These plans are known as junk plans for a reason. They screen consumers for health status and systematically discriminate against individuals with pre-existing conditions, vary premiums based on gender, and exclude coverage for most major medical conditions. They also fail to cover needed benefits and basic medical services that consumers would reasonably expect to be

covered by health insurance, include annual or lifetime limits, and are not subject to cost-sharing limits.<sup>1</sup>

Unfortunately, due to either deceptive marketing or consumer confusion, many individuals are not aware they are purchasing plans that don't provide comprehensive coverage, which can have disastrous consequences for their health and pocketbook. Brokers who sell these plans can engage in questionable tactics, such as pushing consumers to purchase plans over the phone without reviewing any written information or coverage documents, misleading consumers about the type of coverage they are purchasing, and failing to disclose STLDI plans' significant coverage limitations and exclusions.<sup>2</sup> Additionally, coverage limitations are not always made clear in marketing materials, making it extremely difficult for consumers to understand what they are purchasing. Consumers who fall sick while enrolled in one of these plans may incur huge, potentially ruinous medical costs.

STLDI plans were originally created to cover individuals for a limited period, helping people transition from one health plan to another during a temporary gap in coverage. In 2018, the Trump administration issued a final rule that greatly expanded the availability of STLDI plans.<sup>3</sup> It extended the maximum duration for coverage from three months to up to 364 days and allowed insurers to renew these junk plans for up to 36 months. This dangerous expansion of STLDI plans that discriminate against those with pre-existing conditions, limit coverage, and leave customers with exorbitant medical bills must be immediately addressed.

On January 28, 2021, President Biden issued Executive Order 140009, indicating his desire to roll back the Trump administration's final rule that greatly expanded the availability of junk plans.<sup>4</sup> We also understand that HHS intends to amend the Trump expansion through regulations to ensure Americans have access to comprehensive coverage, and that the ACA is not undermined.<sup>5, 6</sup>

However, we are running out of time. The United States is about to experience the largest health coverage event since the creation of the ACA when the Medicaid continuous coverage protections end on March 31. Total Medicaid and CHIP enrollment has grown to a record 90.9 million in September 2022, which is an increase of nearly 20 million people from February 2020 and the start of the COVID-19 pandemic.<sup>7</sup> HHS predicts that approximately 8.2 million Medicaid beneficiaries will lose their eligibility and must transition to another source of coverage during the 12-month unwinding period.<sup>8</sup>

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<sup>1</sup> Energy and Commerce Committee Democratic Staff Report, *Shortchanged: How the Trump Administration's Expansion of Junk Short-Term Health Insurance Plans is Putting Americans at Risk* (June 2020)

<sup>2</sup> *Id.*

<sup>3</sup> Department of Health and Human Services, *Short-Term, Limited-Duration Insurance*, 83 Fed. Reg. 38212 (Aug. 3, 2018) (final rule).

<sup>4</sup> Exec. Order No. 14009, 86 Fed. Reg. 7793 (Feb. 2, 2021).

<sup>5</sup> Department of Health and Human Services, *Statement of Regulatory Priorities for Fiscal Year 2023*

<sup>6</sup> Department of Health and Human Services, *Short-Term Limited Duration Insurance; Update* (Spring 2022) (proposed rule).

<sup>7</sup> Medicaid.gov, *September 2022 Medicaid & CHIP Enrollment Data Highlights* (Sept. 2022).

<sup>8</sup> Assistant Secretary for Planning and Evaluation, *Unwinding the Medicaid Continuous Enrollment Provision: Projected Enrollment Effects and Policy Approaches* (Aug. 19, 2022).

The Biden administration and Congress have taken strong steps and given rigorous guidance to states to help mitigate coverage losses and keep people insured, but we need to use every tool at our disposal to ensure that individuals losing their coverage can find high-quality, comprehensive health coverage, with all the consumer protections they are due. We can't wait any longer to reverse the prior Administration's dangerous expansion of junk plans, and to remove them as a longer-term coverage option for individuals disenrolled from Medicaid and CHIP.

As Ranking Members on the Energy & Commerce Committee, we urge you to take immediate and swift action to protect millions of Americans from insufficient coverage and return STLDI plans to their original purpose of truly short-term coverage.

Sincerely,



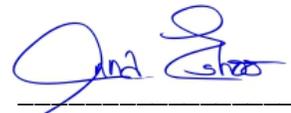
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Frank Pallone, Jr.  
Ranking Member  
Committee on Energy  
and Commerce



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Kathy Castor  
Ranking Member  
Subcommittee on  
Oversight & Investigations



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Anna Eshoo  
Ranking Member  
Subcommittee on  
Health