

# Congress of the United States

Washington, DC 20510

August 27, 2018

The Honorable Alex M. Azar  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma:

We write to request an explanation of how the Department of Health and Human Services (HHS or the Department) is implementing recommendations from a Government Accountability Office (GAO) report finding deficiencies in the Department's management of the 2018 Open Enrollment period. GAO found that the majority of stakeholders they interviewed attributed lower 2018 HealthCare.gov enrollment to significant consumer confusion about the status of the Affordable Care Act (ACA) and the Trump Administration's negative statements about the law.<sup>1</sup> The nation's health department, which has the self-identified objective of "improving Americans' access to health care," should not be working against the interests of patients and families and their goals of obtaining quality, affordable health insurance. We therefore request information on the Department's plans to address GAO's recommendations for the upcoming Open Enrollment period.

GAO examined HHS's outreach and enrollment efforts for the 2018 Open Enrollment period for individual market health insurance plans offered on the exchanges through HealthCare.gov. GAO interviewed a variety of stakeholders, including state insurance departments, health insurance issuers, research and consumer advocacy organizations, professional trade associations, state-based exchanges, and Navigator organizations to better understand the factors contributing to the decline in enrollment through HealthCare.gov and the consequences of HHS's decisions to cut funding for advertising and consumer outreach. GAO reported:

most stakeholders we interviewed, including all 4 navigator organizations and 3 professional trade organizations, reported that consumer confusion about [the ACA] and its status likely played a major role in detracting from 2018 healthcare.gov enrollment. In addition, many stakeholders attributed consumer confusion to the Administration's negative statements about [the ACA]. Further, many stakeholders reported that as a

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<sup>1</sup> *HEALTH INSURANCE EXCHANGES: HHS Should Enhance Its Management of Open Enrollment Performance*, Government Accountability Office (GAO-18-565) (July 2018).

result of the public debate during 2017 over whether to repeal and replace PPACA many consumers had questions about whether the law had been repealed and whether insurance coverage was still available through the exchanges.

GAO's interviews with stakeholders also found that the Department's drastic reduction in outreach and advertising "likely detracted from 2018 enrollment," particularly "among younger and healthier consumers whose enrollment can help ensure the long-term stability of the exchanges."

Following these interviews and analysis of HHS documents and data, GAO reached several conclusions about the Department's preparation for the 2018 Open Enrollment period. The Department's decisions to drastically cut Navigator funding and to change the Navigator funding formula had negative consequences for both the Navigators' ability to provide services to their communities and the Department's ability to make informed decisions about funding. GAO specifically warns that the funding cuts and allocations "may affect navigator organizations' interests and abilities in providing a full range of services to their communities, including underserved populations." GAO also concluded that the Department's decision not to set numeric enrollment targets "hampers the agency's ability to make informed decisions about its resources," specifically to meet "its current objective of improving Americans' access to health care, including by stabilizing the market and implementing policies that increase the mix of younger and healthier consumers purchasing plans through the individual market."

GAO offered three recommendations to address its findings:

1. The Secretary of HHS should ensure that the approach and data it uses for determining Navigator award amounts accurately and appropriately reflect Navigator organization performance.
2. The Secretary of HHS should establish numeric enrollment targets for HealthCare.gov, to ensure it can monitor its performance with respect to its objectives.
3. Should the agency continue to focus on enhancing the consumer experience as a goal for the program, the Secretary of HHS should assess other aspects of the consumer experience, such as those it previously identified as key, to ensure it has quality information to achieve its goal.

GAO's in-depth analysis of the Department's preparation for and execution of the 2018 Open Enrollment period offers useful guidance as the Department prepares for the upcoming Open Enrollment period. We therefore request a staff briefing to detail how the Department plans to implement GAO's recommendations. If the Department is electing to not implement any of GAO's recommendations, the briefing should address how and why that decision was made, including any efforts to achieve GAO's goals in alternative ways. We request that you also provide responses in writing to the following questions:

1. Why did HHS opt not to use paid television advertising despite the Department's own study from 2017 that found that it was one of the most effective forms of advertising for enrolling new and returning individuals during the Open Enrollment period? Please provide all documents and communications related to this decision.

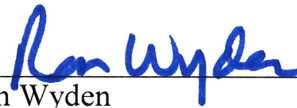
2. According to GAO, “HHS leadership decided against setting numeric enrollment targets for the 2018 open enrollment period and instead focused on a goal of enhancing the consumer experience.” Why did HHS decline to set an enrollment target? Please provide all documents and communications related to that decision.
3. According to GAO, HHS officials stated they did not want to speculate on the specific factors that affected enrollment for 2018. Did the Department conduct analysis regarding the effect that outreach, marketing, and advertising had on 2018 enrollment? If so, please provide all documents and analyses.
4. GAO documents an instance in which a Navigator reported that the application field where Navigators enter their identification number was pre-populated with an agent or broker’s identification number. Please provide an explanation of how this occurred.
5. The Funding Opportunity Announcement for Navigators for the 2019 Open Enrollment season cuts Navigator funding yet again, to \$10 million—an 84 percent cut in funding from the \$63 million awarded in 2016. Please provide an explanation of how the Department arrived at the \$10 million funding level, as well as an explanation of how the Department expects Navigators to fulfill the wide breadth of responsibilities legally required under 42 U.S.C. § 18031 at the \$10 million funding level.

Thank you in advance for your attention to this critical matter. If you have any questions or would like to discuss further compliance with this request, please contact Elizabeth Letter or Colin Goldfinch with Senator Murray’s HELP Committee staff at (202) 224-7675, Arielle Woronoff with Senator Wyden’s Finance Committee staff at (202) 224-4515, Kevin Barstow with Senator Casey’s Aging Committee staff at (202) 224-0185, or Una Lee with Representative Pallone’s Energy and Commerce Committee staff at (202) 225-3641.

Sincerely,



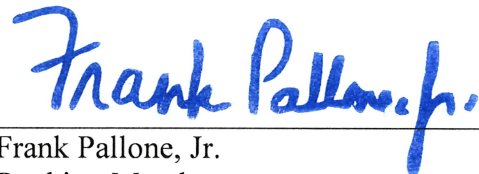
Patty Murray  
Ranking Member  
United States Senate Committee on  
Health, Education, Labor, and Pensions



Ron Wyden  
Ranking Member  
United States Senate Committee on  
Finance



Robert P. Casey, Jr.  
Ranking Member  
United States Senate Special  
Committee on Aging



Frank Pallone, Jr.  
Ranking Member  
United States House of Representatives  
Committee on Energy and Commerce