

# United States Senate

WASHINGTON, DC 20510

January 31, 2017

Daniel R. Levinson  
Inspector General  
U.S. Department of Health and Human Services  
330 Independence Avenue S.W.  
Washington, D.C. 20201

Dear Mr. Levinson,

We are writing today to request an investigation of the U.S. Department of Health and Human Services' ("HHS") January 2017 decision to halt advertisements and to temporarily suspend email and social media efforts directed at Affordable Care Act ("ACA") enrollment in the final days of the 2017 ACA open enrollment season.<sup>1</sup>

On January 26, 2017, HHS officials "halt[ed] all advertising and other outreach activities" aimed at reminding and encouraging Americans to sign up for healthcare through the ACA marketplaces.<sup>2</sup> The move, coming just five days prior to the January 31, 2017, open enrollment deadline, has been labeled "outrageous" and "irresponsible" by a health policy expert.<sup>3</sup> The strength of the ACA marketplaces—which enrolled nearly 13 million people during open enrollment in 2016<sup>4</sup>—depends, in part, on attracting young, healthy enrollees, whose involvement in the marketplaces keeps premium costs down for all enrollees. Historically, the final week of the enrollment period has attracted large numbers of young, healthy individuals to the ACA marketplaces. Thus, blocking advertisements and other outreach efforts just five days

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<sup>1</sup> Paul Demko, "Trump White House abruptly halts Obamacare ads," *Politico* (January 26, 2017) (online at <http://www.politico.com/story/2017/01/trump-white-house-obamacare-ads-234245>); Jonathan Cohn, "Trump Acts to Sabotage Obamacare Enrollment, Days Before Deadline," *Huffington Post* (January 26, 2017) (online at [http://www.huffingtonpost.com/entry/trump-obamacare-enrollment\\_us\\_588a9451e4b0230ce61b0b40?vetgfi0iwyul92j4i](http://www.huffingtonpost.com/entry/trump-obamacare-enrollment_us_588a9451e4b0230ce61b0b40?vetgfi0iwyul92j4i)).

<sup>2</sup> Amy Goldstein, "Trump orders advertising halt during final days to sign up for Obamacare," *Washington Post* (January 26, 2017) (online at <http://www.chicagotribune.com/news/nationworld/ct-trump-obamacare-advertising-20170126-story.html>).

<sup>3</sup> HealthCare.gov, "Open Enrollment Period" (online at <https://www.healthcare.gov/glossary/open-enrollment-period/>); Amy Goldstein, "Trump orders advertising halt during final days to sign up for Obamacare," *Washington Post* (January 26, 2017) (online at <http://www.chicagotribune.com/news/nationworld/ct-trump-obamacare-advertising-20170126-story.html>).

<sup>4</sup> Department of Health and Human Services, "FACT SHEET: About 12.7 million people nationwide are signed up for coverage during Open Enrollment," (February 4, 2016) (online at <https://www.hhs.gov/about/news/2016/02/04/fact-sheet-about-127-million-people-nationwide-are-signed-coverage-during-open-enrollment.html>).

before the January 31<sup>st</sup> deadline threatens to increase insurance prices for the individuals who will signed up for ACA coverage on the exchanges in 2018 and beyond.<sup>5</sup>

There is significant confusion about the precise actions taken by HHS this past week, and the agency has produced no official statements indicating what exactly is happening. First, HHS appeared to halt all outreach efforts - email, phone calls, social media, and television on January 26. A day later, officials indicated that they would be sending emails, making phone calls, and using social media, but would cancel \$4 million worth of television ads.<sup>6</sup> An anonymous HHS spokesman said that these advertisement cuts were a cost-saving measure and that because “the federal government has spent more than \$60 million promoting” the ACA, HHS has “pulled back roughly \$5 million of the final placement in an effort to look for efficiencies, where they exist.”<sup>7</sup> He also stated that these “cost savings will be returned to the U.S. Treasury.”<sup>8</sup> But according to sources within HHS, the \$5 million worth of advertisements have already been paid for, and it is “unclear whether the government [can] recoup that money.”<sup>9</sup>

To help me better understand how, and why, the Trump Administration made this decision, we ask that you conduct an investigation of this decision and its impacts and address the following questions:

1. What was the timeline of actions taken by HHS with regard to ACA enrollment efforts in January 2017? When did the agency halt emails, social media, television ads, and other outreach efforts? Were some or all of these efforts restarted soon thereafter? If so, which ones, when, and to what extent?
2. Who ordered these decisions? Were they directed by individuals at HHS, the White House, or elsewhere?
3. What statutes, procedures, protocols, contracting rules, or other HHS policies followed in this decision making process?

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<sup>5</sup> Amy Goldstein, “Trump orders advertising halt during final days to sign up for Obamacare,” *Washington Post* (January 26, 2017) (online at <http://www.chicagotribune.com/news/nationworld/ct-trump-obamacare-advertising-20170126-story.html>); Pete Weber, “Trump reportedly cancels paid-for Obamacare ads during final enrollment push,” *The Week* (January 27, 2017) (online at <http://theweek.com/speedreads/676232/trump-reportedly-cancels-paidfor-obamacare-ads-during-final-enrollment-push>).

<sup>6</sup> Rachel Pradhan and Paul Demko, “Reversing course, Trump administration will continue Obamacare outreach,” *Politico* (January 27, 2017) (online at <http://www.politico.com/story/2017/01/obamacare-message-healthcare-gov-trump-234278>).

<sup>7</sup> Paul Demko, “Trump White House abruptly halts Obamacare ads,” *Politico* (January 26, 2017) (online at <http://www.politico.com/story/2017/01/trump-white-house-obamacare-ads-234245>).

<sup>8</sup> Jonathan Cohn, “Trump Acts to Sabotage Obamacare Enrollment, Days Before Deadline,” *Huffington Post* (January 26, 2017) (online at [http://www.huffingtonpost.com/entry/trump-obamacare-enrollment\\_us\\_588a9451e4b0230ce61b0b40?vetgfi0iwyul92j4i](http://www.huffingtonpost.com/entry/trump-obamacare-enrollment_us_588a9451e4b0230ce61b0b40?vetgfi0iwyul92j4i)).

<sup>9</sup> Amy Goldstein, “Trump orders advertising halt during final days to sign up for Obamacare,” *Washington Post* (January 26, 2017) (online at <http://www.chicagotribune.com/news/nationworld/ct-trump-obamacare-advertising-20170126-story.html>).

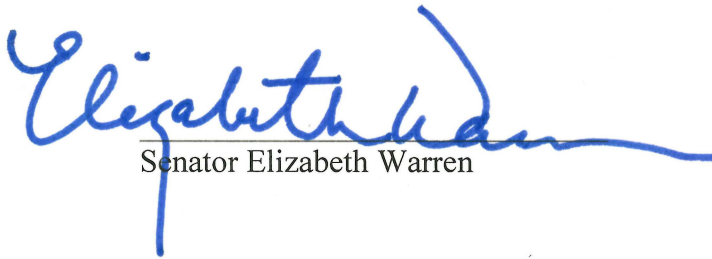
4. What assessments did HHS conduct in advance of halting ACA enrollment outreach efforts? Did HHS determine the extent to which such actions would impact insurer participation or reduce HealthCare.gov enrollment? How many people do you project failed to enroll during this open enrollment period as a result of your actions?
5. Because younger, healthier individuals utilize medical services at lower rates than the population as whole, their involvement in the exchanges can reduce insurance prices for all. Halting advertisements for the marketplaces is expected to reduce the number of young, healthy individuals who purchase ACA plans.
  - a. What assessments did HHS conduct, in advance of halting advertisements, to determine the extent to which such actions would reduce the number of young, healthy enrollees in ACA exchange plans across the country?
  - b. What assessments did HHS conduct, in advance of halting advertisements to determine the extent to which such actions would reduce the number of young, healthy enrollees in ACA exchange plans in states with federally-facilitated marketplaces (FFMs)? Please include the assessments conducted for the 28 states with FFMs.<sup>10</sup>
  - c. What assessments did HHS conduct, in advance of halting advertisements, to determine how their actions would affect insurer participation and premiums for individuals enrolled in ACA plans in future years?
6. The extent to which the federal government will be able to recoup the cost of its canceled advertisements and other canceled actions is unclear.
  - a. What was the cost of the advertisements and other activities canceled by HHS?
  - b. Can HHS recoup some, or all, of these costs? If so, how much money will HHS manage to recoup? How much has HHS been unable to recoup?

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<sup>10</sup> Kaiser Family Foundation, "State Health Insurance Marketplace Types, 2017" (online at <http://kff.org/health-reform/state-indicator/state-health-insurance-marketplace-types/?currentTimeframe=0>).

We appreciate your prompt and complete investigation of these issues. If you have any questions, please do not hesitate to contact Brian Cohen of my office at 202-224-4543.

Sincerely,



Senator Elizabeth Warren



Senator Patty Murray