

Congress of the United States
Washington, DC 20515

June 24, 2016

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

The Honorable Jacob Lew
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Madame Secretary and Mr. Secretary:

As Members of California's Congressional Delegation, we write to request that the Department of Health and Human Services and the Department of the Treasury deny California's application to allow illegal immigrants to enroll in healthcare coverage on California's exchange, Covered California.

This brazen attempt to circumvent the will of Congress adds insult to injury for the millions of Americans who have already been aggrieved and misled by the Patient Protection and Affordable Care Act (ACA). Additionally, California's waiver request would raise costs to taxpayers and set an improper precedent for other states that could lead to full taxpayer-subsidized healthcare coverage for individuals who are illegally present in the United States.

The issue of extending coverage to illegal immigrants on the healthcare exchanges was the subject of vigorous debate during the drafting and passage of the ACA. Both the American people and lawmakers were repeatedly promised illegal immigrants would not be able to receive coverage under the law.

During his 2009 address to a Joint Session of Congress, President Barack Obama affirmed: "There are also those who claim that our reform effort will insure illegal immigrants. This, too, is false. The reforms I'm proposing would not apply to those who are here illegally."¹ In fact, the ACA explicitly prohibits unlawful residents from purchasing health insurance on a state exchange, stating:

"If an individual is not, or is not reasonably expected to be for the entire period for which

¹ Remarks by the President to a Joint Session of Congress on Health Care, PUB. PAPERS (Sept. 9, 2009).

enrollment is sought, a citizen or national of the United States or an alien lawfully present in the United States, the individual shall not be treated as a qualified individual and may not be covered under a qualified health plan in the individual market that is offered through an Exchange.”²

Despite these assurances, the State of California recently passed a law requiring the state to make a request to the federal government to enroll illegal immigrants on the state exchange under the Innovation Waiver provision outlined in Section 1332 of the ACA.³ Covered California predicts 50,000 illegal aliens would benefit from this expansion⁴ while a more comprehensive examination estimates 390,000 illegal immigrants may participate. This move also comes on the heels of California’s expansion of the state’s Medicaid program to 170,000 undocumented children.

California’s waiver request would exacerbate the negative effects of the President’s healthcare law and ignores Congressional intent. As such, it should be denied.

According to a February 2016 report by the Senate Committee on Homeland Security and Governmental Affairs, illegal immigrants nationwide have already received \$750 million in taxpayer funded subsidies in violation of the ACA.⁵ Purposefully permitting additional undocumented Californians to purchase coverage on the state exchange would only make these costly errors all the more common.

Further, we can expect an improper expansion of coverage to be followed by an increased burden on taxpayers. If advocates of this effort are successful in eliminating the differences between benefits available to legal and illegal populations, subsidies for plans could be made available for an average of 72% of plan costs.⁶ Current tax credits and cost-sharing subsidies to legal resident enrollees cost taxpayers \$32 billion in 2015 alone.⁷

Denial of this waiver application would prevent yet another action undermining the promises made, but not kept, with the passage of the ACA. Americans were promised that if they liked their doctor and their plans, then they could keep them. Unfortunately, that has not been the case. Citizens were promised premium savings of more than \$2,500 per year for a family of four, yet the non-partisan Congressional Budget Office (CBO) predicts skyrocketing premiums to continue approaching an additional 60% over the next ten years.⁸

Overall spending on healthcare has only increased despite commitments that federal intervention would reduce the taxpayer burden. In fact, CBO’s most recent budget and economic

² Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1312 (f)(3), 124 Stat. 184, (2010).

³ Cal. Code § 100522 (2016).

⁴ BOARD OF CALIFORNIA HEALTH BENEFIT EXCHANGE, ANALYSIS AND REP. ON CALIFORNIA’S OF SECTION 1332 STATE INNOVATION WAIVER PROPOSALS 3 (April 7, 2016).

⁵ MAJORITY STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, 114TH CONG., REP. ON AFFORDABLE CARE ACT PREMIUM TAX CREDITS: HHS AND IRS LACK PLAN TO RECOVER IMPROPERLY SPENT TAXPAYER DOLLARS 4 (Comm. Print 2015).

⁶ Louise Norris, *Will You Receive an Obamacare Premium Subsidy?*, HEALTH INSURANCE RESOURCE CENTER, Oct. 2, 2015, <https://www.healthinsurance.org/obamacare/will-you-receive-an-obamacare-premium-subsidy/>.

⁷ CONGRESSIONAL BUDGET OFFICE, INSURANCE COVERAGE PROVISIONS OF THE AFFORDABLE CARE ACT, Table 3 (2015).

⁸ CONGRESSIONAL BUDGET OFFICE, PRIVATE HEALTH INSURANCE PREMIUMS AND FEDERAL POLICY, 1 (2016).

outlook report asserts the impact of the ACA has been the primary cause for the stagnation of our economic growth.⁹ Now, this California effort threatens to increase the burden on American taxpayers yet again. If granted, this waiver would undermine the guarantee that illegal immigrants would not receive the direct ability to purchase healthcare on the exchanges.

For these reasons, we request that you deny California's Section 1332 Innovation Waiver application. We thank you for your attention to this matter, and look forward to your response. If you have questions, please contact Chelsea Cuellar in Congressman Darrell Issa's Office at chelsea.cuellar@mail.house.gov or at (202) 225-3906 option 4.

Sincerely,



Rep. Darrell Issa



Rep. Tom McClintock



Rep. Ken Calvert



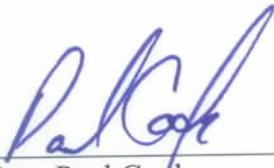
Rep. Dana Rohrabacher



Rep. Duncan Hunter



Rep. Doug LaMalfa



Rep. Paul Cook



Rep. Ed Royce



Rep. Mimi Walters

⁹ CONGRESSIONAL BUDGET OFFICE, THE BUDGET AND ECONOMIC OUTLOOK: 2016 TO 2026, 7 (2016).