

ONE HUNDRED EIGHTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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February 28, 2023

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Becerra:

On July 9, 2021, President Biden issued an executive order titled “Executive Order on Promoting Competition in the American Economy” that stated:

A fair, open, and competitive marketplace has long been a cornerstone of the American economy, while excessive market concentration threatens basic economic liberties, democratic accountability, and the welfare of workers, farmers, small businesses, startups, and consumers.¹

We agree with the premise that free enterprise advances individual liberty, a value we and our constituents hold dear. Particularly, when it comes to an issue as personal and important as a patient’s health, the freedom of Americans to make care decisions that are best for themselves and their families—unobstructed by government—is critical to ensuring this basic tenet of American life is upheld.

Unfortunately, in the Notice of Benefit and Payment Parameters for 2024—the annual Obamacare rule—you proposed limiting the number of plan offerings that do not meet government-dictated specifications (known as “standardized plans”) that an issuer may offer. By estimates the Department of Health and Human Services (HHS) itself has promulgated, this will render illegal more than 60,000, well over half (57%), of all plans offered through the federal platform, resulting in their termination next year. 2.7 million Americans—more than one in four who are enrolled through the federal platform—will be kicked off their Obamacare plans.

The baffling justification offered by HHS for its proposal is that purchasers of Obamacare plans actually have too many choices, and therefore, the federal government must limit such choices to those it deems preferable. The assertion that too much competition is harmful directly contradicts President Biden’s declaration about the benefits of open and competitive markets, raising

¹ [Executive Order on Promoting Competition in the American Economy | The White House](#)

questions as to whether your proposal aligns with the president’s competition agenda. Moreover, the implication that the federal government knows better than Americans as to their family’s health care choices is particularly offensive when considering HHS’s assertion that low-income Americans will stand to benefit the most from HHS limiting their choices.

Furthermore, this proposal ignores the economic reality that more competition results in better prices for patients and families. In the early years of Obamacare’s implementation, premiums were consistently higher and grew faster in markets with less competition than in markets with more competition.^{2,3} While the Secretary of the Treasury is currently employing “extraordinary measures” to ensure the full faith and credit of the United States, it is reckless to pursue—without Congressional approval—policies that could credibly result in more spending on subsidies that would result from any increase in premiums.

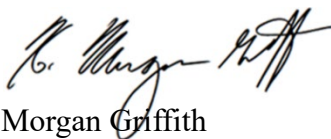
During the Obama Administration, it was frequently stated that “if you like your health plan, you can keep it.” This was dubbed the 2013 “Lie of the Year.”⁴ With the federal government preparing to tell nearly three million Americans who might like their health care plan, that they can no longer keep it, once again the Democratic platform on health care is “if you like your health plan, you still can’t keep it!”

We strongly urge you to abandon this proposal immediately. We stand ready to work with you on advancing policies that increase competition and lower health care costs. Such policies could discourage provider consolidation or improve transparency of health care prices to empower individuals and employers when purchasing health care. Given the urgency of this request, please provide a response by March 14, 2023.

Sincerely,



Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce



Morgan Griffith
Chair
Subcommittee on Oversight and Investigations



Brett Guthrie
Chair
Subcommittee on Health

² [ACA Marketplace Premiums Grew More Rapidly In Areas With Monopoly Insurers Than In Areas With More Competition | Health Affairs](#)

³ [Insurer Competition In Federally Run Marketplaces Is Associated With Lower Premiums | Health Affairs](#)

⁴ [PolitiFact | Lie of the Year: 'If you like your health care plan, you can keep it'](#)