

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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February 27, 2018

The Honorable Trey Gowdy  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to request that you issue a subpoena to compel the Trump Administration to produce documents it is withholding relating to its secret collaboration with an extreme right-wing anti-choice group in rescinding an Obama Administration letter to state Medicaid directors that protected individuals seeking to exercise their statutory rights to obtain family planning or other health care services from a provider of their choice.

On February 12, 2018, I wrote a letter to Eric D. Hargan, the Deputy Secretary of the Department of Health and Human Services (HHS), after a whistleblower provided me with documents indicating that an extreme right-wing anti-choice group known as Alliance Defending Freedom was behind a recent effort by the Trump Administration to allow states to terminate Planned Parenthood as a state Medicaid healthcare provider.<sup>1</sup>

On January 19, 2018, the Trump Administration sent a letter to state Medicaid directors rescinding a 2016 letter from the Obama Administration informing states that it is against the law to terminate providers, particularly family planning providers like Planned Parenthood, based on unsubstantiated allegations, such as those made by David Daleiden, who circulated misleading and heavily-doctored videos in 2015.<sup>2</sup>

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<sup>1</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Deputy Secretary Eric D. Hargan, Department of Health and Human Services (Feb. 12, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2017-02-12.EEC%20to%20HHS%20re.Planned%20Parenthood.pdf>).

<sup>2</sup> Letter from Vikki Wachino, Director, Center for Medicaid and CHIP Services, Centers for Medicare and Medicaid Services, Department of Health and Human Services, to State Medicaid Directors (Apr. 19, 2016) (online at [www.medicare.gov/federal-policy-guidance/downloads/smd16005.pdf](http://www.medicare.gov/federal-policy-guidance/downloads/smd16005.pdf)); *Obama Officials Warn States About Cutting Medicaid Funds to Planned Parenthood*, Washington Post (Apr. 19, 2016) (online at [www.washingtonpost.com/news/post-nation/wp/2016/04/19/obama-officials-warn-states-about-cutting-medicaid-](http://www.washingtonpost.com/news/post-nation/wp/2016/04/19/obama-officials-warn-states-about-cutting-medicaid-)

As you know, after an exhaustive investigation, our Committee concluded on a bipartisan basis that Mr. Daleiden's allegations were completely false, yet some states continue to cite them as a rationale for continuing to target Planned Parenthood to this day.<sup>3</sup>

The documents provided by the whistleblower indicate that Trump Administration appointees—on direct instructions from Mr. Hagan's office while he was serving as Acting Secretary—rushed to rescind the 2016 letter as an “utmost priority” with a “very quick turnaround.” The documents show that a first draft of this letter was provided to the Trump Administration by Alliance Defending Freedom, and it was finalized and approved a week later on January 19, 2018—in time for the March for Life rally held in Washington D.C.

According to the documents provided by the whistleblower, numerous Trump Administration appointees at HHS and the Centers for Medicare and Medicaid Services (CMS) were directly involved in this effort, including many with a history of unfairly targeting Planned Parenthood. The documents do not indicate whether White House or other Trump Administration officials were a part of this effort.

As I explained in my letter to HHS, the documents provided by the whistleblower raise serious concerns about whether the Trump Administration is now taking orders from an extreme right-wing interest group that is trying to deny American citizens the ability to exercise their right to obtain family planning services from the provider of their choice, which is guaranteed by federal statute.

In addition, the documents raise grave questions about the legitimacy of the Trump Administration's letter to state Medicaid directors on January 19, which appears to be a clandestine effort to tip the scales of justice in favor of states that are targeting Planned Parenthood in violation of federal law.

In response to my request to produce documents regarding this matter by February 26, 2018, HHS stated publicly: “We've received the letter and will respond.”<sup>4</sup> Instead, the Trump Administration has provided no response whatsoever, has produced none of the documents that were requested, and has denied none of these allegations.

It is one of our Committee's core responsibilities to protect against unwarranted—and secret—influence by outside entities on U.S. policies, particularly when they seek to diminish or undercut the statutory rights of American citizens.

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funds-to-planned-parenthood).

<sup>3</sup> House Committee on Oversight and Government Reform, *BREAKING: Oversight Committee Chairman Admits on National Television He Has No Evidence Planned Parenthood Violated Any Laws* (Sept. 30, 2015) (online at <https://democrats-oversight.house.gov/news/press-releases/breaking-oversight-committee-chairman-admits-on-national-television-he-has-no>).

<sup>4</sup> *Democrats Slam Trump Administration for Conservative Group Input on Planned Parenthood Defunding*, Washington Examiner (Feb. 13, 2018) (online at [www.washingtonexaminer.com/democrats-slam-trump-administration-for-conservative-group-input-on-planned-parenthood-defunding/article/2649016](http://www.washingtonexaminer.com/democrats-slam-trump-administration-for-conservative-group-input-on-planned-parenthood-defunding/article/2649016)).

For these reasons, I request that you issue subpoenas compelling HHS and CMS to produce, by March 13, 2018, documents in their custody, control, or possession referring or relating to:

1. all communications between any employee of HHS and Casey Mattox or any employee of the Alliance Defending Freedom since January 20, 2017;
2. all communications involving any employee of HHS related to the “any willing provider” or “free choice of provider” provisions since January 20, 2017;
3. all meetings between employees of HHS and any nongovernmental individual or entity related to the “any willing provider” or “free choice of provider” provisions since January 20, 2017, including any calendar entry for the meeting, communications about the meeting, and documents exchanged at the meeting;
4. the January 19, 2018, letter from Brian Neale and Alec Alexander to State Medicaid Directors, including all communications regarding the drafting and editing of the letter, all drafts of the letter, as well as any draft of the letter provided to HHS from any nongovernmental individual or entity;
5. all formal or informal reviews by individuals at HHS, CMS, or the Office of Management and Budget to obtain sign-off for the January 19, 2018, letter;
6. all communications, discussions, consultations, or briefings with career HHS or CMS staffers relating to the January 19, 2018, letter;
7. the decisions by Arkansas and Louisiana to deny Planned Parenthood qualification to provide Medicaid Services or the ongoing litigation related to those decisions; and
8. documents and communications related to the proposed rule on “Protecting Statutory Conscience Rights in Health Care; Delegations of Authority.”

If you decline to join this request, then I ask you to place this matter on the agenda for our next regularly scheduled business meeting so all Committee members will have the opportunity to vote on a motion to issue these subpoenas. Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings  
Ranking Member