

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 29, 2017

The Honorable Thomas E. Price, M.D.  
Secretary  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Secretary Price:

We are writing to request documents relating to the decision by the Trump Administration to schedule major outages of HealthCare.gov during this year's open enrollment period, particularly since the Department has already slashed funding for enrollment outreach and assistance efforts.

After the House of Representatives failed to repeal the Affordable Care Act (ACA) in March, President Donald Trump argued that "the best thing we can do politically speaking is let Obamacare explode."<sup>1</sup> Unfortunately, in addition to undermining the ACA, the Trump Administration's recent actions may harm many Americans who are seeking to obtain health insurance to protect themselves and their families.

Recently, the Administration announced plans to conduct maintenance outages of HealthCare.gov from midnight to noon Eastern Standard Time every Sunday except December 10, 2017.<sup>2</sup> Even more disturbing, the Administration also announced its decision to shut down HealthCare.gov on Wednesday, November 1, 2017—the first day of open enrollment for next year's health plans.<sup>3</sup>

The Department has had this entire year to conduct routine maintenance without any disruption to people seeking to purchase healthcare plans through HealthCare.gov during the

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<sup>1</sup> *Read President Trump's Response to the Republican Health Care Bill Failure*, TIME (Mar. 24, 2017) (online at <http://time.com/4713107/donald-trump-transcript-ahca-bill/>).

<sup>2</sup> *Obamacare Signup Site to be Shut Down for 12 Hours Nearly Every Sunday of Open Enrollment*, PBS (Sept. 22, 2017) (online at [www.pbs.org/newshour/rundown/obamacare-signup-site-shut-12-hours-nearly-every-sunday-open-enrollment/](http://www.pbs.org/newshour/rundown/obamacare-signup-site-shut-12-hours-nearly-every-sunday-open-enrollment/)).

<sup>3</sup> *HealthCare.gov to Go Dark for 12 Hours Nearly Every Sunday of Open Enrollment*, Modern Healthcare (Sept. 22, 2017) (online at [www.modernhealthcare.com/article/20170922/NEWS/170929945](http://www.modernhealthcare.com/article/20170922/NEWS/170929945)).

open enrollment period. In addition, this year's open enrollment period was reduced from 90 days to 45 days.<sup>4</sup>

As a result, it is unclear why the Trump Administration needs so many more outages to maintain the site this year—after the enrollment period was shortened—and why the Administration designated the first day of open enrollment season to conduct purportedly regular, non-urgent maintenance. Previous open enrollment periods that lasted twice as long have reportedly required fewer maintenance outages.<sup>5</sup>

According to other reports, the Administration has also withdrawn advertisement funding, suppressed enrollment outreach efforts, and cut funding for the ACA's Navigator program, which was designed to help consumers enroll in ACA plans.<sup>6</sup>

More than nine million people in 39 states—including in Ranking Member Krishnamoorthi's home state of Illinois—used HealthCare.gov to sign up for health insurance in 2016.<sup>7</sup> It is critical that the site be fully functional and accessible for all those who seek to utilize it to obtain health insurance for themselves and their families.

In order to evaluate the Department's actions, please provide the following documents and information by October 10, 2017:

- (1) all documents and communications referring or relating to the decision to shut down the website during parts of this year's open enrollment period;
- (2) all documents and communications, including internal or external estimates or analyses, referring or relating to the extent to which reduced outreach funding, the shorter open enrollment period, and scheduled outages may affect the number of people who enroll during this year's open enrollment period; and
- (3) all communications referring or relating to extending the December 15 deadline if enrollment decreases due to the scheduled outages.

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<sup>4</sup> *Sunday Hours: Obamacare Website To Be Shut Down For Portion of Most Weekends*, Kaiser Health News (Sept. 22, 2017) (online at <http://khn.org/news/hhs-to-close-insurance-exchange-for-12-hours-on-sundays-during-enrollment/>).

<sup>5</sup> *Id.*

<sup>6</sup> *Trump to Slash ObamaCare Outreach Funding*, The Hill (Aug. 31, 2017) (online at <http://thehill.com/policy/healthcare/348763-trump-administration-to-slash-obamacare-outreach-funding>); *Bemoaning Budget Cuts, Health Care Navigators Say Feds Don't Get It*, NPR (Sept. 20, 2017) (online at [www.npr.org/sections/health-shots/2017/09/20/552094974/bemoaning-budget-cuts-health-care-navigators-say-feds-dont-get-it](http://www.npr.org/sections/health-shots/2017/09/20/552094974/bemoaning-budget-cuts-health-care-navigators-say-feds-dont-get-it)).

<sup>7</sup> *Obamacare Enrollment Drops in Face of Trump Repeal Effort: More Than 9 Million People Signed Up on Federal Exchange*, CNBC (Feb. 3, 2017) (online at [www.cnbc.com/2017/02/03/more-than-9-million-people-signed-up-on-federal-obamacare-exchange-by-close-of-open-enrollment-government-says.html](http://www.cnbc.com/2017/02/03/more-than-9-million-people-signed-up-on-federal-obamacare-exchange-by-close-of-open-enrollment-government-says.html)).

In addition, we request a briefing from appropriate Department officials on the following questions:

- (1) What technical issues warrant shutting down HealthCare.gov during this year's open enrollment period, and when were they identified?
- (2) How many plan selections were made per day during the 2015 and 2016 open enrollment periods? What is average number of plan selections made on each day of the week?
- (3) How will the Department measure the effects of this year's shorter open enrollment period, cuts to enrollment outreach funding, and scheduled outages on 2018 enrollment numbers?
- (4) What steps is the Department taking to ensure that people are fully informed of when these outages will occur?
- (5) When were you made aware of the days and times for the scheduled website downtime during this year's open enrollment period?
- (6) How was the decision made to shut down the website on Sundays from midnight to noon?
- (7) What alternatives to scheduled outages were considered? What, if any, consideration was given to the website traffic during that period in other time zones?

If you have any questions about this request, please contact the Democratic staff of the Committee at (202) 225-5051. Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings  
Ranking Member  
Committee on Oversight and  
Government Reform



Raja Krishnamoorthi  
Ranking Member  
Subcommittee on Health Care  
Benefits, and Administrative Rules

cc: The Honorable Trey Gowdy, Chairman  
Committee on Oversight and Government Reform

The Honorable Jim Jordan, Chairman  
Subcommittee on Health Care, Benefits, and Administrative Rules