

United States Senate

WASHINGTON, DC 20510

April 4, 2017

The Honorable Jefferson Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Sessions,

The Affordable Care Act played a key role in ensuring that consumers could afford the health coverage they need. One key provision of the law directly benefiting consumers establishes a system of cost-sharing reductions (CSR), and directs the Secretaries of Health and Human Services (HHS) and Treasury to reimburse insurers for these reductions that help reduce out-of-pocket costs, like copays, coinsurance, and deductibles. In *House v. Price* (formerly *House v. Burwell*), Republican members of the House of Representatives brought suit against the Obama Administration for taking necessary action to maintain a robust insurance market and guarantee coverage for all consumers.

An appeal is currently pending, but on February 21, 2017, the parties agreed to halt further proceedings until May 22, 2017, in order “to allow time for a resolution that would obviate the need for judicial determination of this appeal, including potential legislative action.” As a result, to date, the Administration has continued to reimburse insurers for cost-sharing payments. Given your role representing the Administration as Attorney General, we respectfully request that you please answer the following questions:

1. What specific factors contributed to the Administration’s request for additional time to determine a course of action in this case?
2. What legislation and legislative vehicle does the Administration anticipate could obviate the need for an appeal?
3. If a “resolution” is not reached by May 22, 2017, does the Administration intend to continue appealing the decision in *House v. Price* after the new May 22, 2017, deadline?
4. What course of action does the Administration anticipate after the May 22, 2017, deadline should it decide not to appeal the case? What financial impact will this have on insured individuals with Marketplace coverage in 2018? What impact would it have on the exit of insurers from the market?

Whether the Administration continues to provide CSR payments to insurers is fundamental to the operation of the Marketplaces. For instance, in testimony before the Senate Committee on Help, Education, Labor, and Pensions, Marilyn Tavenner (President and CEO of America’s Health Insurance Plans) recommended the continuation of these payments, which

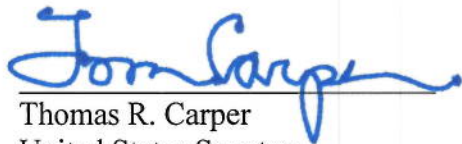
absence “would further deteriorate an already unstable market and hurt the millions of consumers who depend on these programs for their coverage.”

The immediate threat posed by the mixed messages coming from the Administration, coupled with additional uncertainty posed by a wide range of actions taken by the Administration and Republican Congress, could lead to fewer choices, less access, and higher premiums. Until those who initiated the lawsuit, the House Republican Conference, develop a practical resolution to prevent millions of Americans from experiencing higher out-of-pocket costs, we urge you to provide predictability for the American people by continuing to appeal the decision and reimbursing insurers for cost-sharing payments.

Sincerely,



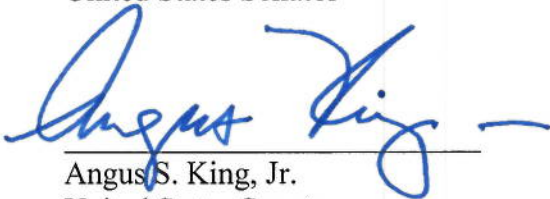
Mark R. Warner
United States Senator



Thomas R. Carper
United States Senator



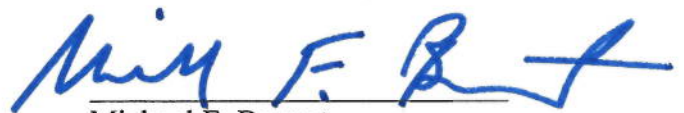
Margaret Wood Hassan
United States Senator



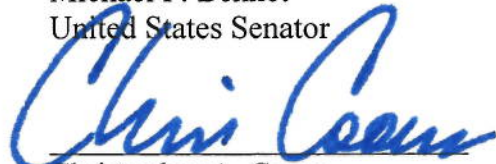
Angus S. King, Jr.
United States Senator



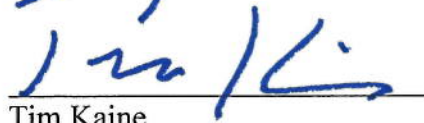
Jeanne Shaheen
United States Senator



Michael F. Bennet
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Christopher A. Coons
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Tim Kaine
United States Senator



Bill Nelson
United States Senator