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8  
 9 IN THE UNITED STATES DISTRICT COURT  
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 **THE STATE OF CALIFORNIA; THE**  
 12 **STATE OF CONNECTICUT; THE STATE**  
 13 **OF DELAWARE; THE DISTRICT OF**  
 14 **COLUMBIA; THE STATE OF ILLINOIS;**  
 15 **THE STATE OF IOWA; THE**  
 16 **COMMONWEALTH OF KENTUCKY;**  
 17 **THE STATE OF MARYLAND; THE**  
 18 **COMMONWEALTH OF**  
 19 **MASSACHUSETTS; THE STATE OF**  
 20 **MINNESOTA; THE STATE OF NEW**  
**MEXICO; THE STATE OF NEW YORK;**  
**THE STATE OF NORTH CAROLINA; THE**  
**STATE OF OREGON; THE**  
**COMMONWEALTH OF PENNSYLVANIA;**  
**THE STATE OF RHODE ISLAND; THE**  
**STATE OF VERMONT; THE**  
**COMMONWEALTH OF VIRGINIA; and**  
**THE STATE OF WASHINGTON,**

Plaintiffs,

v.

21  
 22 **DONALD J. TRUMP, President of the United**  
 23 **States; ERIC D. HARGAN, Acting Secretary**  
 24 **of the United States Department of Health**  
 25 **and Human Services; UNITED STATES**  
 26 **DEPARTMENT OF HEALTH AND**  
 27 **HUMAN SERVICES; STEVEN T.**  
**MNUCHIN, Secretary of the United States**  
**Department of the Treasury; UNITED**  
**STATES DEPARTMENT OF THE**  
**TREASURY; and DOES 1-20,**

Defendants.

Case No. 4:17-cv-05895-KAW

**DECLARATION OF KIMBERLY S.**  
**CAMMARATA, ASSISTANT**  
**ATTORNEY GENERAL, DIRECTOR,**  
**MARYLAND OFFICE OF THE**  
**ATTORNEY GENERAL, HEALTH**  
**EDUCATION AND ADVOCACY UNIT,**  
**ISO PLAINTIFFS' APPLICATION FOR**  
**A TEMPORARY RESTRAINING**  
**ORDER AND ORDER TO SHOW**  
**CAUSE WHY A PRELIMINARY**  
**INJUNCTION SHOULD NOT ISSUE**

I, Kimberly S. Cammarata, declare and say as follows:

1. I am an Assistant Attorney General and the Director of the Maryland Attorney General's Health Education and Advocacy Unit (HEAU). I have served in this position for over 6 years. The facts stated herein are based on knowledge, information, and belief.
2. The HEAU was established to promote the interests of consumers in the health marketplace, among other purposes. The HEAU assists Maryland residents with health insurance enrollment, enrollment denials, denials of advance premium tax credits, denials of cost-sharing reductions, denials of coverage, and disputes involving medical equipment and billing. The HEAU advocates for consumers during federal and state legislative, administrative and rulemaking proceedings and during the Maryland Insurance Administration's rate review proceedings.
3. As the Director of the HEAU, I serve as a consumer-liaison with the Maryland Health Benefit Exchange, Maryland's state-based health insurance marketplace.
4. In Maryland, as of September 2016, the Patient Protection and Affordable Care Act (ACA) ensured access to health insurance for 421,084 individuals. 142,872 individuals were covered in private insurance and 278,212 were covered under Medicaid expansion.
5. Statistics reported by the Maryland Health Benefit Exchange show that over 83,000 individuals in Maryland are projected to receive over \$97 million in cost-sharing reductions in calendar year 2017.
6. In Maryland, carriers that issue or deliver health benefit plans in the State must submit premium rates to the Maryland Insurance Commissioner for approval and may not change the premium charged unless and until the rate has been filed with and approved by the Commissioner.
7. Proposed premium rates in the individual and small group markets are reviewed based on statistical analysis and reasonable assumptions to determine if they are inadequate, unfairly discriminatory or excessive in relation to benefits.
8. The statutory rate review program serves a vital public purpose. All rate filings are open to public inspection when filed and subject to public

comment filing. The Commissioner also allows public access to supporting information he does not deem proprietary or confidential. The HEAU has filed consumer-centric comments to carrier rate filings for the last three plan years.

9. The rate review program also provides the Commissioner an opportunity as a regulator of health plans to review proposed rates and announce to the public whether proposed rates are actuarially sound.
10. If the Commissioner finds that a proposed rate is inadequate, unfairly discriminatory or excessive, he will modify or deny the rate filing and offer the carrier a hearing.
11. For the 2018 plan year, carriers filed requests for premium rate changes with the Commissioner on May 1, 2017. These proposed rates were posted on the Maryland Insurance Administration's website and available to the public for comment. Public hearings were held on Wednesday, June 21, 2017 and Monday, July 17, 2017.
12. The requirement that carriers post their proposed rates at least 7 months before they are implemented serves an important function, by allowing members of the public and consumer advocates to review the proposed rates independently, check the carriers' assumptions, and provide public comment on the proposed rates to the carriers and the Maryland Insurance Administration. The May 1st rate filing deadline also allows the rates to be reviewed and finalized within the time needed for the Maryland Health Benefit Exchange to certify health plans and to incorporate the plans on its consumer shopping website, Maryland Health Connection, in time for open enrollment.
13. On August 29, 2017, Maryland's Insurance Commissioner approved 2018 rates based on the assumption that cost-sharing reduction payments would be funded through the 2018 plan year.
14. Approved 2018 rates were loaded into Maryland's Health Benefit Exchange shopping website and carrier operating systems and tested to ensure proper communication for plan shopping between the operating systems.
15. On October 2, 2017, the Maryland Health Benefit Exchange offered consumers the opportunity to begin plan browsing for 2018 plans including 2018-approved rates on Maryland Health Connection.

16. Approximately 50,000 viewers have logged on to the Exchange's website and viewed the 2018 rates currently listed.
17. The Maryland Health Benefit Exchange has already mailed renewal notices to 120,000 affected consumers containing new plan offerings, 2018-approved rate information, and the availability and amount of advanced premium tax credits, when applicable, based on the 2018-approved rate information.
18. Now -- after the rate filing and public posting deadlines have passed, rates have been loaded into the necessary operating systems and tested, renewal notices have been mailed to consumers, consumers have started browsing plans on Maryland Health Connection, marketing materials have been created and enrollment events have been scheduled -- the federal government has announced that it will not reimburse carriers that sell health benefit plans for cost-sharing reductions.
19. By law, health plans must provide cost-sharing reductions to consumers, regardless of whether they are funded. If the federal government does not reimburse health plans for cost-sharing reductions; health plans may need to increase their premiums in order to compensate for this loss.
20. Based on the above information, the Maryland Insurance Administration has found it necessary to invite carriers to submit an amended proposed rate filing for 2018 and that it has sought guidance from the federal government about the process and ability to do so given that rates have already been announced.
21. If, as anticipated, carriers submit amended rate filings, the Maryland Insurance Administration will face a significant administrative burden and additional time and expense to review the filings, particularly given the limited amount of time available, noting that the beginning of open enrollment is November 1, 2017.
22. Reducing the amount of time available to spend on the rate review program thwarts a valuable and important statutory mandate to ensure a sufficient, transparent, and public review of proposed premium increases. It will also cause significant consumer confusion about rates, particularly for consumers who have already received renewal notices with 2018-rate approved information and the amount of tax credits available to them, and

for the approximately 50,000 consumers who have already browsed for 2018 plans on Maryland Health Connection.

23. Unless amended rate filings are submitted and rate review undertaken immediately, it could be administratively impossible for a complete and thorough rate review process to take place, for new rates to be loaded onto the Maryland Health Benefit Exchange's and carriers' operating systems, for tax credits to be re-determined, and for adequate notice to be provided to consumers prior to the beginning of Open Enrollment on November 1, 2017.
24. If the federal government permits revised 2018 rate filings, the Maryland Health Benefit Exchange's entire 2018 Open Enrollment operating plan will be undermined and will have to be revised.
25. The Maryland Health Benefit Exchange will have to mail new renewal notices to approximately 120,000 consumers at a cost of \$57,000 and make numerous technical changes to the application website, including: reloads of plan information, changes to user interfaces (screens related to Consumer Portal, Worker Portal and Mobile App), notice changes, and other code changes, all of which must be retested.
26. The Maryland Health Benefit Exchange has scheduled "Beat the Rush" in-person enrollment events at twenty locations between November 3-5, 2017. If new rates have not been approved, loaded onto the system, and tested, these events may have to be cancelled or rescheduled and will further limit the time consumers have for plan shopping and enrollment.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

  
Kimberly S. Cammarata