

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION**

THE STATE OF CALIFORNIA; THE STATE OF CONNECTICUT; THE STATE OF DELAWARE; THE DISTRICT OF COLUMBIA; THE STATE OF ILLINOIS; THE STATE OF IOWA; THE COMMONWEALTH OF KENTUCKY; THE STATE OF MARYLAND; THE COMMONWEALTH OF MASSACHUSETTS; THE STATE OF 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.

DONALD J. TRUMP, President of the United States; ERIC D. HARGAN, Acting Secretary of the United States Department of Health and Human Services; UNITED STATES DEPARTMENT OF HEALTH AND 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.

NO. 4:17-cv-05895

DECLARATION OF JEFFREY T. SPRUNG

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I, Jeffrey T. Sprung, declare as follows:

1. I am over the age of 18 years of age, have personal knowledge of all facts and matters herein, and am competent to testify to the matters below.

2. Attached as Exhibit 1 to this declaration is a letter dated September 15, 2017, from Shane Macaulay, MD to Bob Ferguson, Attorney General, State of Washington, regarding the view of the Washington State Medical Association of the impact of the termination of cost-sharing reduction subsidies on the cost and outcomes of health care treatment in the State.

I affirm under penalty of perjury that the foregoing is true and correct.

DATED this 17th day of October, 2017, at Olympia, Washington.



JEFFREY T. SPRUNG
Assistant Attorney General

Exhibit 1



Washington State
Medical Association
Physician Driven Patient Focused

2001 Sixth Avenue, Suite 2700
Seattle, Washington 98121
206.441.9762
800.552.0612
Fax: 206.441.5863
wsma@wsma.org

1800 Cooper Point Road SW
Bldg. 7, Suite A
Olympia, Washington 98121
360.352.4848
800.562.4546
Fax: 360.352.4303

Shane Macaulay, MD
President

Donna Smith, MD
President-Elect

Ray Hsiao, MD
Past President

Thomas Schaaf, MD
1st Vice President

Bill Hirota, MD
2nd Vice President

Nathan Schlicher, MD
Secretary-Treasurer

Mika Sinanan, MD
Assistant Secretary-Treasurer

Jennifer Hanscom
Executive Director/CEO

September 15, 2017

Bob Ferguson
Attorney General, State of Washington
Washington State Office of the Attorney General
1125 Washington St. SE
PO Box 40100
Olympia, WA 98504

Re: Cost-Sharing Reduction Payments

On behalf of the Washington State Medical Association and our more than 10,000 physician and physician assistant members from across the state, we are writing regarding the cost-sharing reduction plans and subsidies provided for by the Patient Protection and Affordable Care Act.

Ensuring access to care for patients is of paramount importance to the WSMA. This is predicated in part on access to affordable health care coverage. While Washington's experience of establishing and enrolling individuals in our state's Exchange has been relatively positive, that could be jeopardized by the cessation of CSR payments.

Faced with the prospect of federal health care reform, the WSMA Board of Trustees developed a set of principles to serve as our guideposts as we consider the changes that have been proposed. Among them, several are relevant to the CSR payments:

- Pursue universal access to comprehensive, high-quality, safe, affordable health care for all Washingtonians through health care coverage options that are designed to encourage participation of physicians and practices.
- Preserve the ability of those who received access to insurance under the original Affordable Care Act to maintain coverage at affordable premium rates.
- Strengthen and stabilize the health insurance market, including the individual market, to ensure choice and the ongoing participation of a number of regional and national health insurers.
- Ensure health care equity and access for minority, underserved and special-needs populations.

The Congressional Budget Office projects that if the CSR payments were discontinued, premiums for silver plans offered through the Exchange would increase by 20 percent in 2018 and 25 percent in 2020.¹ With premiums already costly and expected to continue to

¹ <https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/53009-costsharingreductions.pdf>

rise even if CSR payments are continued, this could have the effect of pricing patients out of their coverage.

The same CBO report also projects that more areas would face the prospect of “bare counties” where no individual health insurance plans are offered if the CSR payments are discontinued. Our state’s initial plan filings for 2018 had two such counties.² While that was remedied this year, it is foreseeable that the problem could be exacerbated in future years if CSR payments are discontinued.

When health insurance coverage becomes unavailable or unaffordable for patients, continuity of care is disrupted. This can have the effect of worsening health outcomes if check-ups are missed or chronic diseases aren’t properly managed. It can also have the effect of driving patients to seek costlier routine care in emergency departments rather than primary care physicians. Conversely, ensuring access to care helps to get the right care to patients, in the right setting, at the right time – reducing costs and improving outcomes.

The continuation of CSR payments is a critical component of ensuring access to more affordable health care coverage, and thereby access to care.

Thank you for your consideration of this important issue. Please contact me if you have questions or if there is additional information we can provide.

Sincerely,

A handwritten signature in cursive script that reads "Shane Macaulay".

Shane Macaulay, MD
President, Washington State Medical Association

cc: Jennifer Hanscom, Executive Director/CEO
WSMA Executive Committee

² <https://www.insurance.wa.gov/news/eleven-health-insurers-file-2018-individual-market-37-counties-leaving-two-no-coverage>