

EXHIBIT D

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

PLANNED PARENTHOOD OF MARYLAND,
INC., *et al.*,

Plaintiffs,

v.

ALEX M. AZAR II, Secretary of the United States
Department of Health and Human Services, in his
official capacity, *et al.*,

Defendants.

Civil Action No. CCB-20-00361

**DECLARATION OF MARIEL DIDATO IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, Mariel DiDato, declare and state as follows:

1. I currently reside in New Jersey, where I am working as a waitress and a graduate fellow to pay my way through graduate school.
2. I have purchased and maintain an active individual health insurance plan through New Jersey's state-based exchange on the federal platform.
3. My health insurance plan currently covers abortion services which are not permitted to be paid for with federal funds.
4. I am a female of reproductive age and able to become pregnant. I want an insurance plan that covers these abortion services, which I may require and use if I become pregnant.
5. It is my understanding that under the Patient Protection and Affordable Care Act ("ACA"), insurers that offer plans covering federally excluded abortion services must

segregate the portion of the premium payments they receive from consumers that are attributable to these abortion services from the portion of the premium payments attributable all other covered services (the “segregation requirement”).

6. It is also my understanding that the Centers for Medicare and Medicaid Services (“CMS”) and the Department of Health and Human Services (“HHS”) have issued a new rule (the “Rule”) implementing the ACA segregation requirement that would, among other things, require insurers offering individual health insurance plans sold on state health exchanges that provide coverage for federally excluded abortion services to send consumers two separate bills for the full monthly premium. One bill would be for coverage of federally excluded abortion services, and the other for coverage of *all* other services under the policy. I also understand that the insurers would have to tell consumers covered by these plans to pay the two bills using two separate transactions.

7. I understand that the Rule would require my insurer to change its billing and collection practices, as it currently provides me with a single bill for my entire monthly premium and permits me to pay that bill in a single transaction.

8. I fear that the Rule, if permitted to take effect, will have a severe negative impact on my ability to pay my monthly premiums and retain my current insurance coverage.

9. I understand that the Rule will increase administrative and other costs for insurers that continue to offer insurance plans that cover federally excluded abortion services. I am worried that if the Rule takes effect, my insurer may decide to cut coverage for abortion services from my plan, rather than deal with any increased costs associated with complying with the Rule.

10. This coverage is very important to me and, as noted above, I wish to retain it

while obtaining the other benefits of my preferred health insurance plan. The prospect of losing access to coverage for a constitutionally protected medical procedure that I may need makes me feel devalued. I am not aware of any other health care procedure that is treated as distinct from all other health care on an insured person's premium bill.

11. If I lost my coverage for federally excluded abortion services and needed an abortion, I would be forced to find a way to pay for the procedure on my own. Given the cost, which I understand can be hundreds of dollars or more, and my current income, that prospect is daunting and would force me to make tradeoffs with significant other expenses.

12. Even if I do not lose coverage for abortion services under my plan, I fear that my insurer may be forced to raise my monthly premium in order to help cover the costs associated with implementing the Rule. I will have to figure out a way to try to pay any increase in my monthly premium on my own. It is already extremely difficult for me to cover the portion of my monthly premium that I must pay out-of-pocket. Given the nature of my work as a waitress, my weekly paycheck is not consistent. I also have to worry about paying off my undergraduate student loans, paying approximately \$200 out-of-pocket a month for mental health care and for contact lenses, and paying for the cost of gas each month, which can be quite expensive given how far and how often I must travel for work. I also try to save what little money, if any, I have leftover at the end of each month after I've covered my expenses to put towards eventually moving out of my parents' house.

13. As a result, my monthly budget is already extremely tight. Indeed, I am only *just* able to afford my current health plan. Even a small increase in my current premium would be extremely difficult, if not impossible, for me to afford. Attempting to retain my current coverage at a higher cost may require me to make sacrifices, including forgoing food, clothing

or other basic necessities, or dipping into my savings and compromising my goal of moving out and becoming a self-sustaining adult. Moreover, depending on the amount of a premium increase as a result of the Rule, I may be forced to switch to another plan with a higher deductible, less coverage, or both.

14. I will also face an increased risk of inadvertently losing my insurance coverage entirely under the Rule. Because my income is inconsistent, it is important that I have control over when money gets deducted from my account. Accordingly, I have deliberately chosen to manually pay my monthly premium online each month.

15. I understand that the Rule prohibits insurers from refusing to accept a consumer's premium payment in the event the consumer purposefully or accidentally uses a single transaction to pay her full monthly premium (as opposed to using two separate transactions). That portion of the Rule will not reduce the burden that the Rule imposes on me because I will follow my insurer's payment instructions and will have to complete two separate manual transactions online each month instead of one. I do not want to do anything that could cause issues with the processing of my payments, or force my insurer to repeatedly warn me (via disruptive phone calls, additional emails, or mailings) that I am paying my premiums the wrong way and need to change my payment method. In other words, I am concerned that ignoring my insurer's payment instructions will only consume more of my time.

16. I am already extremely busy juggling the demands of a graduate education, work as a waitress, and other personal and professional obligations, including my graduate fellowship position at the Eagleton Institute of Politics at Rutgers University. Having to remember to make two separate payments online each month, as opposed to just one, and to take the time to make both of these payments will be an added burden on my time.

17. Moreover, I always use my credit card to pay my monthly premiums because my credit limit is high enough to confidently cover the charge of the premium, whereas the amount of money in my bank account varies month-to-month because my income is inconsistent. I understand that if the Rule takes effect, some insurers may stop allowing consumers to use credit cards to pay their monthly premiums in order to avoid having to pay transaction fees, which may double as a result of the additional transaction required by the Rule. Not having the option to use my credit card to pay my premium would be a major issue for me. I would be forced to spend extra time moving money around to ensure that I have enough in my bank account to cover my premium payment each month. Having to rely on my bank account would also increase my stress levels and my risk of facing overdraft fees or missing a payment if – as a result of trying to cover multiple monthly expenses at once – I do not have enough money in my account to cover the payment.

18. While I always take great pains to ensure that I submit my full out-of-pocket premium payment on time, I am concerned that receiving two separate bills, and having to make two separate payments in order to pay my premium in full, will double the odds of my accidentally failing to pay my full monthly premium and eventually losing my health care coverage entirely.

19. It is my understanding that New Jersey has enacted its own individual mandate, so that all non-exempt New Jersey residents must maintain qualifying health coverage, or pay a penalty on their state taxes. If I inadvertently lose my insurance coverage as a result of the Rule, I may be forced to pay a tax penalty for failing to comply with New Jersey law.

20. For all these reasons, I ask the Court to prevent the serious harm the Rule would inflict on me and others who are similarly situated by stopping enforcement of the Rule.

I declare under penalty of perjury that the foregoing is true and correct. This declaration was executed on February 20, 2020, in New Jersey.


Mariel DiDato