

MEMORANDUM

Date: February 22, 2019

To: Residential Eating Disorders Consortium

From: Center Road Solutions

RE: House Energy & Commerce Committee Hearing: Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-existing Condition Protections

On February 13, the House Energy and Commerce Health Subcommittee held a hearing entitled, “Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-existing Condition Protections” which presented four bills including:

- **H.R. 986:** “Protecting Americans with Pre-existing Conditions Act of 2019” introduced by Rep. Ann Kuster (D-NH), would require the Trump Administration to rescind the Section 1332 guidance of the ACA issued in October 2018.
- **H.R. 987:** “Marketing and Outreach Restoration to Empower Health Education Act of 2019” or the “MORE Health Education Act” introduced by Rep. Lisa Blunt Rochester (D-DE), will restore outreach and enrollment funding to assist consumers in signing up for health care.
- **H.R. 1010:** “To provide that the rule entitled, “Short-Term, Limited Duration Insurance” shall have no force or effect” introduced by Rep. Kathy Castor (D-FL), will reverse the Trump Administration’s expansion of “junk insurance plans.”
- **H.R. 1143:** “Educating Consumers on the Risks of Short-Term Plans Act of 2019” introduced by Chairwoman Eshoo (D-CA), would require short-term, limited duration insurance (STLDI) to disclose the risks of STLDI to prospective consumers, including disclosure that STLDI may cover preexisting conditions, may not cover the costs of medical services, and that coverage may be rescinded if the individual seeks treatment for a preexisting condition.

Hearing Summary/Opening Statements:

Chairman Representative Frank Pallone (D-NJ):

- All four bills we are considering today are important first steps in lowering health care costs and protecting consumers with pre-existing conditions.

Health Subcommittee Ranking Member Representative Michael Burgess (R-TX):

- These four bills will do nothing to address the high premium costs of health insurance plans and I am disappointed that we are here today and not addressing the high cost of affording care.
- Constituents in my state have health insurance with such high deductibles that they are scared to access care because they can’t afford it.

Witnesses:

Grace-Marie Turner, President, Galen Institute ([testimony](#))

- According to a study published by the Kaiser Family on “Changes in Enrollment in the Individual Health Insurance Market,” there were 17.4 million policyholder in the individual market in 2015, dropping to 14.4 million by the first quarter of 2018.
- An estimated 1.7 million people who would be otherwise be uninsured are expected to enroll in an STLDI plan.
- Only 5% of Americans got their policies through the individual market in 2018—this would be the only segment of the market subject to the Texas v. Azar decision. Surely Congress can come to a bipartisan agreement to protect them without disrupting coverage for the over 300 million Americans who already have it.

Katie Keith, JD, MPH, Associate Research Professor and Adjunct Professor of Law, Georgetown University ([testimony](#))

- Short-term, limited duration insurance plans are highly profitable. Data from the National Association of Insurance Commissioners (NAIC) shows that STLDI insurers had an average loss ratio of 64.6% in 2017 compared to 80% for ACA-compliant individual market plans.
- The new 1332 guidance waiver encourages states to define “coverage” to include plans that do not comply with the ACA, including STLDI and association health plans; increase the number of people with less comprehensive coverage; increase the number of consumers exposed to higher out-of-pocket costs relative to the ACA; impose coverage losses or higher out-of-pocket costs on vulnerable populations—such as older adults or low-income people.
- The former chief marketing officer for Healthcare.gov estimated that there have been at least 2.3 million fewer enrollments due solely to cuts to outreach and advertising.

Jessica Altman, Commissioner, Pennsylvania Insurance Department ([testimony](#))

- Recently, my Department worked with an STLDI plan enrollee who fainted at work and hit her head, which results in an emergency transport to a local hospital’s intensive care unit. After cost-sharing, the STLDI plan covered just over \$1,300 with the consumer stuck with a bill of over \$16,000.
- Pennsylvania has stepped up funding and operationalizing our own open enrollment outreach campaign to make sure accurate information is reaching consumers, but not every federal marketplace state has the ability to do this and our state resources are more limited than the federal government’s.
- Pennsylvania state law does not currently contain restrictions on STLDI, so our Department is taking two approaches to reviewing and monitoring STLDI. That are detailed thoroughly in the linked testimony above.
- 70% of the cost savings in STLDI plans compared to ACA plans are because of pre-existing condition exclusions.

Q&A Session:

- **Rep. Morgan Griffith (R-VA):** I look forward to working with Chairwoman Eshoo on H.R. 1143 to make sure consumers know what they’re purchasing.
- **Rep. Doris Matsui (D-CA):** Commissioner Altman, what is your state doing to make sure consumers know what they’re purchasing?
 - **Commissioner Altman:** We have spent a lot of time working to launch a campaign that will list questions consumers should be asking when shopping for insurance to help guide them to the right plan for them.
- **Rep. Doris Matsui (D-CA):** CMS should be taking part in the efforts to inform consumers like Pennsylvania is doing.
- **Rep. Raul Ruiz (D-CA):** Will the expansion of short-term plans increase costs for all Americans, Ms. Keith?
 - **Ms. Keith:** Yes. All the analyses done, including the analysis from the Trump Administration, has concluded that the expansion of short-term plans will increase costs for all Americans.
- **Rep. Hudson (R-NC):** I don’t think short-term plans are a long-term solution. However, they’re helpful for my constituents back home. One constituent used a short-term plan after he retired before his Medicare kicked in. Do you think the current disclosure notices on short-term plans are enough and consumers read them and understand them, Ms. Turner?
 - **Ms. Turner:** Yes, I do.
- **Rep. Blunt Rochester (D-DE):** Ms. Keith, can you let me know why marketing is important for the ACA?
 - **Ms. Keith:** Studies have shown that 69% of Americans didn’t know that the open enrollment deadline to sign up for insurance was December 15. Americans still need information and guidance when signing up for health insurance.