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April 28, 2020

Secretary Alex M. Azar II
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201
Via Email and U.S. Mail

Administrator Seema Verma
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Via Email and U.S. Mail

Jerome M. Adams, M.D.
United States Surgeon General
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201
Via Email and U.S. Mail

Dear Secretary Azar, Administrator Verma, and Doctor Adams:

Recently the Administration stated its intent to promote access to mental health services during the COVID-19 pandemic.¹ These efforts, including guidance on telehealth and supplemental grant funding from the Substance Abuse and Mental Health Services Administration, could help some Americans obtain the mental and behavioral health resources they need at a time of widespread crisis and disruption. While this stated intent is important, it falls short of the additional steps necessary to ensure Americans have access to mental health services through health insurance coverage. For this reason, we write to reiterate our urgent request that the Administration create a special enrollment period on HealthCare.Gov so that the 22 million individuals and families who have already suffered recent job loss—and the millions more who are also likely to lose their jobs—can access coverage,² including the mental health and substance abuse care the Administration says it is prioritizing during these unprecedented times.

¹ See <https://www.justice.gov/usao-sdca/sdca-covid-19-resources> (Apr. 16, 2020).

² *Unemployment Insurance Weekly Claims*, U.S. Dep't of Labor (Apr. 16, 2020), <https://www.dol.gov/ui/data.pdf>.

Broader availability of mental health services is imperative. Many Americans are suffering as millions of workers have lost their jobs, including many who have lost their healthcare coverage. Others are underinsured, and some low-wage workers lack employer-provided health insurance. Many Americans, including workers whose jobs are essential during the emergency—truckers, grocery store workers, delivery carriers, cleaners—do not receive healthcare coverage through their employment. As a result, healthcare may be out of reach for Americans who need it the most. HealthCare.gov could be a lifeline for these people. The federal exchange can connect them with resources to preserve their physical and mental health and help them avoid both the financial costs of care and the negative consequences of untreated mental or behavioral health issues. The Administration’s stated commitment to choice and “informed healthcare decisions”³ would also be advanced by giving Americans the option to obtain comprehensive healthcare coverage to combat this unprecedented healthcare care crisis.

The Affordable Care Act’s inclusion of mental health and substance use disorder treatments as an essential health benefit will play an important role in assisting federal efforts during the pandemic by ensuring that prevention, treatment, recovery support services, and safe and effective pain management are and remain available for those struggling during this time. *See* 42 U.S.C. § 18022(b)(1); 45 C.F.R. § 156.110.

The federal government should immediately implement a special enrollment period in light of the COVID-19 crisis so that more Americans have access to these services at a time when they may need them most. Indeed, a recent study estimated that over a million Americans could gain comprehensive healthcare coverage, including mental health and substance use disorder treatment, if the Administration were to create a special enrollment period due to the pandemic.⁴ Further, the Administration should put its resources behind a national campaign to make Americans aware of coverage options and help.

In States that have performed such outreach and set up special enrollment periods, signups are increasing and people are getting the help they so desperately need during this pandemic. Several of our state-run exchanges have implemented special enrollment periods to allow people who lack healthcare coverage to obtain it. In this way, people can be covered even if they have not experienced a qualifying event such as the loss of employer-provided coverage. In California, 58,000 people have signed up for coverage through Covered California since

³ *See, e.g.*, Exec. Order 13,813, *Promoting Healthcare Choice and Competition Across the United States*, 82 Fed. Reg. 48,385 (Oct. 2, 2017).

⁴ Charles Gaba, *FOLLOW-UP: How many would likely #GetCovered in YOUR HC.gov state via a #COVID19-specific SEP?*, ACA Signups.net (updated Apr. 16, 2020), <http://acasignups.net/20/04/16/follow-how-many-would-likely-getcovered-your-hcgov-state-covid19-specific-sep>.

March 20, 2020.⁵ Maryland announced on April 16, 2020 that over 21,500 residents had enrolled in coverage during its special enrollment periods; more than 61 percent of residents utilizing the pandemic-SEP enrolled in Medicaid and the remainder in private insurance, with most of the latter qualifying for financial help to lower the cost of the plan.⁶ In Connecticut, 2,890 additional households have obtained coverage through the state's special enrollment period. In Vermont, where the uninsured rate was already very low before the COVID-19 crisis, 180 additional households have obtained potentially life-saving coverage through the state's special enrollment period.

These state actions demonstrate that if the Federal government opened and promoted a special enrollment period during the pandemic, working families across the country would benefit, including in States like Hawaii, Georgia, Kentucky, and Michigan that have suffered some of the biggest job losses due to the pandemic.⁷ Increased access to comprehensive healthcare not only helps ensure access to mental health and substance abuse treatment, it could also assist with prompt COVID-19 detection, aid with early treatment, diminish spread of the disease, and avoid the consequences of costly hospitalization when the uninsured delay seeking care until their conditions deteriorate.⁸

For these reasons, we have written twice to urge the Administration to immediately establish a special enrollment period for the millions of Americans impacted by the current health and economic crisis.⁹ Already, over 200 additional organizations and counting have

⁵ *Covered California Enrolls Tens of Thousands as Impacts of COVID-19 Pandemic Hits California Households*, Covered California (Apr. 14, 2020), <https://www.coveredca.com/newsroom/news-releases/2020/04/14/covered-california-enrolls-tens-of-thousands-as-impacts-of-covid-19-pandemic-hits-california-households/>.

⁶ *More Than 21,500 Marylanders Obtain Health Coverage Through State Special Enrollment Periods*, Maryland Health Benefit Exchange (Apr. 16, 2020), <https://www.marylandhbe.com/wp-content/uploads/2020/04/EnrollmentMetricsPressRelease041620.pdf>.

⁷ Thomas Franck, et al., *This Map Shows the States that Suffered the Biggest Job Losses Last Week Due to Coronavirus*, CNBC (Apr. 9, 2020), <https://www.cnbc.com/2020/04/09/this-map-shows-the-states-that-suffered-the-biggest-job-losses-last-week-due-to-coronavirus.html>.

⁸ Christen Linke Young, et al., *Responding To COVID-19: Using The CARES Act's Hospital Fund To Help The Uninsured, Achieve Other Goals*, Health Affairs (Apr. 11, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200409.207680/full/>.

⁹ See multi-state letter sent on April 3, 2020, that urged the U.S. Department of Health and Human Services to open a special enrollment period to allow all uninsured individuals to obtain coverage due to the unprecedented circumstances of the COVID-19 pandemic, <https://www.oag.ca.gov/system/files/attachments/press-docs/CA%20NC%20COVID-19%20healthcare%20exchange%20letter%20plus%20IA.pdf>; and multi-state letter sent on April 14, 2020, that requested the Administration to develop and implement an outreach plan to inform the millions of Americans who have already or will lose their employer-sponsored health

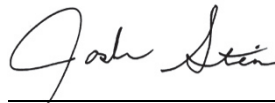
likewise appealed to the Administration to create this special enrollment opportunity.¹⁰ The Administration's failure to act was recently highlighted by Facebook's announcement on April 16, 2020, that it will begin directing users to the healthcare exchanges amid rising unemployment.¹¹ At a time when the Administration is still "scrambling for answers,"¹² this "simple, common-sense step" would help millions of American families immediately secure comprehensive and affordable coverage, and, would assist Americans who have lost employer-sponsored insurance, in obtaining coverage promptly without need for documentation of a qualifying life event.¹³

We urge you to take this "simple common-sense step." The data shows that this concrete action will help millions of Americans weather this crisis, with the added benefit of containing the further spread of this deadly virus so the nation can get back on track sooner.

Sincerely,



Xavier Becerra
California Attorney General



Josh Stein
North Carolina Attorney General

insurance coverage due to the pandemic of the special enrollment period that is available to them through Healthcare.gov and state-based marketplaces, <https://oag.ca.gov/news/press-releases/attorney-general-becerra-co-leads-push-michigan-and-north-carolina-ags-increased>.

¹⁰ 200+ Organizations Call for Expansion of Health Insurance Enrollment During Coronavirus Crisis, Community Catalyst (Mar. 20, 2020), <https://www.communitycatalyst.org/news/press-releases/200-organizations-call-for-expansion-of-health-insurance-enrollment-during-coronavirus-crisis>.

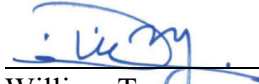
¹¹ Cristiano Lima, *Facebook to Direct Users to Obamacare Site Amid Rising Unemployment*, Politico (Apr. 16, 2020), <https://subscriber.politicopro.com/article/2020/04/facebook-to-direct-users-to-obamacare-site-amid-rising-unemployment-3979472>.

¹² Rachel Roubein and Susannah Luthi, *White House Still Scrambling to Cover Virus Treatment for the Uninsured*, Politico (Apr. 20, 2020), <https://www.politico.com/news/2020/04/20/coronavirus-treatment-uninsured-195218>.

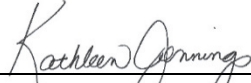
¹³ Charles Gaba and Emily Gee, *How Trump's Policies Have Hurt ACA Marketplace Enrollment*, Center for American Progress (Apr. 16, 2020), <https://www.americanprogress.org/issues/healthcare/news/2020/04/16/483362/trumps-policies-hurt-aca-marketplace-enrollment/>.



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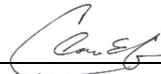
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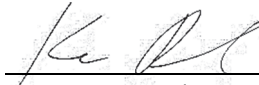
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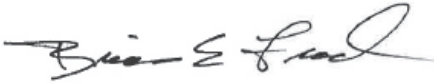
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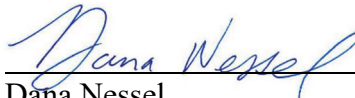
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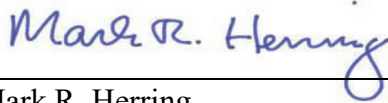
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