

April 14, 2020

ATTORNEY GENERAL RAOUL URGES FEDERAL GOVERNMENT TO INCREASE OUTREACH ABOUT HEALTH CARE COVERAGE DURING COVID-19

Increasing Awareness of Special Enrollment Period is Critical During Pandemic

Chicago — Attorney General Kwame Raoul, as part of a coalition of 22 states, today urged the U.S. Department of Health and Human Services (HHS) and its Centers for Medicare and Medicaid Services (CMS) to immediately develop and implement an outreach plan to inform the millions of Americans who have lost – or may lose – their employer-sponsored health insurance coverage about the Special Enrollment Period available through Healthcare.gov, the federal exchange.

In a [letter issued today](#), Raoul and the attorneys general highlight the importance of providing families with the information and tools they need to navigate their health care options and access coverage during the unprecedented international health care crisis posed by COVID-19.

“The millions of people who lost their jobs and health care coverage due to the economic fallout of the pandemic are struggling immeasurably,” said Raoul. “The federal government has a duty to help these people by letting them know they qualify for a Special Enrollment Period and subsidies under the Affordable Care Act to get the health care coverage they desperately need.”

In the letter, Raoul and the attorneys general state that the Affordable Care Act (ACA) provides the flexibility necessary to help people who have lost employment and their families’ health care coverage during this critical time. The ACA requires the HHS secretary to provide yearly open enrollment periods on the exchanges to permit individuals to enroll in new or different health care coverage. Outside of this period, individuals may enroll in coverage only if they qualify for a Special Enrollment Period due to certain life events, such as the loss of employer-provided health care. Raoul and the coalition point out that informing individuals of the potential for replacing lost coverage via [Healthcare.gov](#) is vital, as most Americans obtain coverage through their employers. In 2018, over half of individuals under age 65 had insurance through an employer.

Raoul and the coalition point out that the importance of outreach will only increase as the economic upheaval of this crisis continues to expand. A new study by the Health Management Associates [estimates that the number of people receiving coverage from an employer could decline by up to 35 million](#) due to layoffs caused by the COVID-19 pandemic. This same study estimates that the economic impact to the labor market could disproportionately impact the roughly 58 million non-elderly individuals who have employer-sponsored coverage and earn less than \$50,000 per year. This heavily-hit population could greatly benefit from navigating their options on the exchanges, where they may qualify for subsidies to help pay for health care coverage.

Raoul and the coalition express concern that, without immediate and widespread outreach, Americans who have recently been laid off will remain unaware of the Special Enrollment Period and thus not access needed health care coverage. Evidence shows that marketplace advertising and consumer assistance increases enrollment numbers and stabilizes markets. Yet, over the last few years, the federal government has [actively cut marketplace advertising and consumer assistance](#). The attorneys general are urging HHS, as the operator of [Healthcare.gov](#), to step in to get the word out to consumers in the 38 states that rely on the federal exchange. In the letter, Raoul and the attorneys general state that HHS should also ensure that outreach

materials are translated into the same range of languages as other HHS vital documents in order to ensure meaningful access to information about the Special Enrollment Period.

Raoul and the attorneys general urge HHS to empower individuals and working families across the country to pursue the best coverage option for them, whether it is exchange coverage, CO-BRA, Medicare, Medicaid, or the Children's Health Insurance Program. The coalition says that while the federal government's promise to reimburse for the testing and treatment of COVID-19 for the uninsured is a step in the right direction, it will not help provide these Americans the comprehensive health care they so desperately need and could leave many families with large hospital and insurance bills in the long run.

Joining Attorney General Raoul in sending the letter are the attorneys general of California, Michigan, North Carolina, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Iowa, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, New York, Oregon, Penn-sylvania, Rhode Island, Vermont, Virginia, and Washington.



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April 14, 2020

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

Administrator Seema Verma
Centers for Medicare & Medicaid Services
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Via Email and U.S. Mail

Dear Secretary Azar and Administrator Verma:

The undersigned State Attorneys General of California, Michigan, North Carolina, Colorado, Connecticut, Delaware, the District of Columbia, Hawai'i, Illinois, Iowa, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington urge the Centers for Medicare & Medicaid Services (CMS) to develop and implement immediately an outreach plan to inform the millions of Americans who have already or will lose their employer-sponsored health insurance coverage of the Special Enrollment Period that is available to them through Healthcare.gov and state-based marketplaces.¹ In the midst of this unprecedented international healthcare crisis, millions of Americans are suffering or will suffer the dual loss of their livelihood and their family's healthcare coverage. It is incumbent upon the U.S. Department of Health and Human Services (HHS) to provide those Americans the information and tools needed to navigate their healthcare options. The Affordable Care Act (ACA) specifically contemplates the need for adaptability to help people in these circumstances maintain coverage. 42 U.S.C. § 18031(c)(6)(B).

The ACA requires the HHS Secretary to provide for yearly open enrollment periods on the Exchanges. 42 U.S.C. § 18031(c)(6)(B). Outside of this period, individuals may enroll in coverage through the exchange only if they qualify for a special enrollment period due to certain

¹ This letter is a follow up to the multi-state letter sent on April 3, 2020, that urged HHS to open a special enrollment period to allow all uninsured individuals to obtain coverage due to the unprecedented circumstances of the COVID-19 pandemic. *See* <https://www.oag.ca.gov/system/files/attachments/press-docs/CA%20NC%20COVID-19%20healthcare%20exchange%20letter%20plus%20IA.pdf>.

life events such as loss of employment for individuals whose employers provided healthcare coverage. *See id.* § 18031(c)(6); 26 U.S. Code § 9801(f). Informing individuals of the potential for replacing the coverage they have lost through Healthcare.gov and state-based marketplaces is vital, as most Americans obtain their healthcare coverage through their employer. In 2018, for example, over half, or 55.1%, of individuals under age 65 had insurance through an employer.²

The importance of this outreach will only increase as the economic upheaval caused by this crisis continues to expand. A new study by the Health Management Associates estimates that the number of people receiving coverage from an employer could decline by up to 35 million, including both workers and covered family members, due to layoffs caused by the COVID-19 pandemic.³ This same study estimates that the economic impact to the labor market could disproportionately impact the roughly 58 million non-elderly individuals who have employer-sponsored coverage and earn less than \$50,000 per year.⁴ This heavily hit population would greatly benefit from learning that they qualify for subsidies to help pay for healthcare coverage.

Recent polling indicates that awareness of coverage options even during the regular open enrollment period remains low among marketplace-insured and eligible uninsured. It is therefore likely that awareness about this Special Enrollment Period for the recent laid-off is even lower.⁵ Concerns about a lack of awareness are heavily fueled by the administration's cuts to marketplace advertising and consumer assistance budgets.⁶ But the evidence indicates that marketplace advertising and consumer assistance works in increasing enrollment numbers and stabilizing markets. It is for this reason that states that run their own Exchanges, like California, continue to invest heavily in such activities to support their state-based marketplaces. Indeed, one report indicates that if the federal government conducted marketing and outreach at a level

² Edward R. Berchick, et al., "Health Insurance Coverage in the United States: 2018," U.S. Census Bureau, Nov. 2019, 2018, at 2, <https://www.census.gov/content/dam/Census/library/publications/2019/demo/p60-267.pdf>.

³ <https://www.healthmanagement.com/wp-content/uploads/HMA-Estimates-of-COVID-Impact-on-Coverage-public-version-for-April-3-830-CT.pdf>.

⁴ *Id.*

⁵ Katie Keith, "CMS Could Do More In Light Of The Coronavirus Crisis," Health Affairs, March 25, 2020, <https://www.healthaffairs.org/doi/10.1377/hblog20200325.501048/full/>; *See also* Hart Research Associates, "New Polling among ACA Marketplace Insured and Eligible Uninsured, Oct. 23, 2019, <https://drive.google.com/file/d/0BwWzJPQpHwx9VXdIX2hSUIR0VW1UZjBmMklqSIZtZ0Ffd2d3/view>.

⁶ Sabrina Corlette, et al., "States Lean in as the Federal Government Cuts Back on Navigator and Advertising Funding for the ACA's Sixth Open Enrollment," The Commonwealth Fund, Oct. 26, 2018, <https://www.commonwealthfund.org/blog/2018/states-lean-federal-government-cuts-back-navigator-and-advertising-funding>.

similar to Covered California, it could result in lower premiums and 2.1 million more enrollees.⁷ HHS, as the operator of Healthcare.gov, must step in to get the word out to those impacted in 38 States that rely on the federal exchange and to fill in gaps for state-based exchanges that do not have budgeted funds for this unexpected campaign. *See, e.g.*, 42 U.S.C. § 18031(b)(1)(a); *see also* 45 C.F.R. § 155.205(e) (directing that the exchange must conduct outreach and education activities to educate consumers about the exchange and insurance affordability programs to encourage participation). HHS should also ensure that outreach materials are translated into the same range of languages as other HHS vital documents, in order to ensure meaningful access to information about the Special Enrollment Period.

We must empower individuals and working families across the country to pursue the best coverage option for them, whether it is Exchange coverage, COBRA, Medicare, Medicaid, or the Children’s Health Insurance Program. The federal government’s promise to reimburse for testing and treatment of COVID-19 for the uninsured⁸ is a step forward but it will not help provide recently unemployed Americans the comprehensive healthcare they may so desperately need to avoid large hospital and insurance bills in the long-run.

It is imperative that HHS actively and immediately implement outreach and education for consumers as directed under the Affordable Care Act. This will ensure that people across the country are informed and empowered to make the best decision about their healthcare options.

Sincerely,



Xavier Becerra
California Attorney General



Dana Nessel
Michigan Attorney General



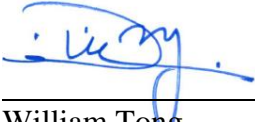
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⁷ Peter V. Lee, et al., “Marketing Matters: Lessons from California to Promote Stability and Lower Costs in the National and State Individual Insurance Markets,” Covered California, Sept. 2017, https://hbex.coveredca.com/data-research/library/CoveredCA_Marketing_Matters_9-17.pdf.

⁸ *See* <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-18/>.



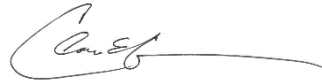
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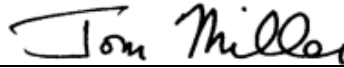
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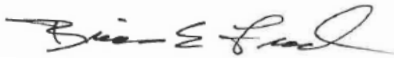
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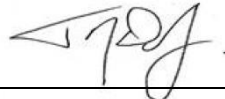
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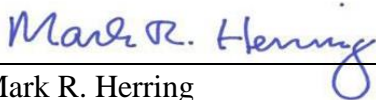
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