April 3, 2019

The Honorable Frank Pallone  
The Honorable Greg Walden  
Chair  
Ranking Member  
U.S. House of Representatives  
U.S. House of Representatives  
Committee on Energy and Commerce  
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2125 Rayburn House Office Building  
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Washington, DC  20515  
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Dear Chairman Pallone and Ranking Member Walden:

On behalf of our nearly 38 million members and all older Americans nationwide, AARP is pleased to endorse H.R. 986, the “Protecting Americans with Preexisting Conditions Act,” H.R. 987, the “More Health Education Act,” and H.R. 1010, a bill to provide that the rule entitled “short-term, Limited Duration Insurance” shall have no force or effect, three bills that would restore and enforce the core consumer protections of the Affordable Care Act (ACA). These bills are important steps to address adverse impacts that recent administrative changes to the Affordable Care Act (ACA) have had on health insurance for all Americans, particularly those age 50-64.

Prior to the ACA, health insurance coverage was out-of-reach for many older Americans who were not yet eligible for Medicare. Most states permitted insurers to charge older Americans five times or more what younger policyholders paid for the same coverage. In addition, coverage was often unavailable – or unaffordable – for people with pre-existing conditions. The ACA’s elimination of pre-existing condition exclusions, and its 3:1 limit on age-rating are critical to ensuring that pre-Medicare eligible Americans have access to affordable, quality coverage.

Over the past two years, the Administration has issued rules and guidance -- including the Short-Term Limited Duration (STLD) plan rule and revised Section 1332 waiver guidance -- that put at risk the critical consumer protections enshrined in the ACA. These changes are particularly harmful to Americans age 50-64.

While in some cases these STLD plans may offer lower premiums, the lack of ACA-compliant consumer protections will undermine the use and value of these policies when someone faces a health emergency.
In addition, AARP is concerned that the revised Section 1332 guidance not only allows for the sale of non-compliant, non-consumer protected health insurance plans, but would also allow these plans to be eligible for advanced premium tax credits, further encouraging the sale of non-ACA compliant plans.

For older Americans, a critical aspect of the ACA’s consumer protections is the prohibition on denying coverage or charging higher rates for preexisting conditions and the prohibition on charging older Americans more than three times what younger Americans pay for the same coverage. The 3:1 age rating provision is crucial in protecting older Americans from paying an “age tax,” essentially having to pay exorbitant rates for health insurance coverage simply because of their age. Prior to enactment of the ACA, health insurance carriers were allowed to charge rates that were often five or ten times higher, effectively rendering health insurance unaffordable to older Americans seeking coverage in the individual market. STLDs are not subject to this prohibition on age rating, allowing for insurers to go well beyond the 3:1 limit when pricing these plans for older Americans.

STLD plans can also charge higher premiums or flat out deny coverage for an individual with a preexisting condition. At least 40 percent of Americans between the ages of 50-64 have what could be characterized by an insurance carrier as a preexisting condition\(^1\). As people age, they tend to develop more health problems, including chronic conditions like congestive heart failure, rheumatoid arthritis, and kidney disease. Because STLDs allow for discrimination in coverage or pricing based on a preexisting condition, older Americans are particularly vulnerable to coverage denial in these plans.

While effectively excluding many older Americans from access to these plans, they also draw a younger, healthier population from the individual health insurance marketplace. Not only are these participants at risk for the many conditions and services not covered by these non-compliant plans – such as prescription drugs and mental health – but the segmented market means that those remaining in the ACA marketplace will experience higher premiums.

The ACA has extended quality, affordable coverage to millions of older Americans. Congressional and Administrative efforts should be aimed at strengthening the ACA’s consumer protections across all health insurance marketplaces, not eroding them. These three bills are an important first step towards these goals and we look forward to working with Members from both sides of the aisle to advance this legislation. If you have any further questions, please feel free to contact me, or have your staff contact Brendan Rose on our Government Affairs staff at brose@aarp.org or 202-434-3770.

Sincerely,

Nancy A. LeaMond
Executive Vice President and
Chief Advocacy and Engagement Officer

\(^1\) [https://www.aarp.org/content/dam/aarp/ppi/2017-01/ACA-Protects-Millions-of-Older-Adults-with-Preexisting-Health-Conditions-PPI-AARP.pdf](https://www.aarp.org/content/dam/aarp/ppi/2017-01/ACA-Protects-Millions-of-Older-Adults-with-Preexisting-Health-Conditions-PPI-AARP.pdf)