

United States Senate

WASHINGTON, DC 20510

October 11, 2012

The Honorable Vincent C. Gray
Mayor of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mayor Gray,

In promoting the Patient Protection and Affordable Care Act (PPACA) to the American people, President Obama repeatedly promised that, “[u]nder our proposals, if you like your doctor, you keep your doctor. If you like your current insurance, you keep that insurance. Period, end of story.” This promise was echoed by Kathleen Sebelius, Secretary of the Department of Health and Human Services, as recently as September 4, 2012, when she assured the Democratic National Convention that “if you already have insurance you like, you can keep it.” However, an October decision by the District of Columbia Health Benefit Exchange Authority (HBX) Executive Board (Executive Board) negates those assurances.

The decision to force individuals and small groups into a government run exchange violates their freedom to negotiate, contract, and retain their current health insurance plan. I am very concerned that individuals and small businesses in the District will face restrictions on health care choice and freedom that exceed even those limitations established in the flawed health care law itself. It is incumbent upon me, in my role on the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, to investigate these policy decisions and ensure that the law is being followed, and that residents of the District are not harmed by this policy.

On October 3rd the Executive Board decided to mandate that individuals and small-business owners in the District purchase their health insurance through the Health Benefit Exchange it oversees. This mandate blatantly interferes with a consumer’s right to keep the plan of their choice. It effectively forces the closure of a private marketplace for all individuals and small business employers. It further takes away an individual or small business owner’s freedom to contract with a private insurer to find a plan that best fits their needs. Forcing consumers seeking Individual or Small Group health coverage to go through the Exchange runs counter to the President’s promises.

Dr. Mohammad Akhter, Chairman of the Exchange Board, has stated that, “[f]or the exchange to be sustainable, it has to have approximately 100,000 people. If the exchange isn’t sustainable in the long haul, if it does not have enough people, then we are wasting our time and our effort.” Wayne Turnage, director of the D.C. Health Care Finance Department and a nonvoting board member, told the Washington Business Journal in July that “without giving the exchange the luxury of being the only insurance marketplace in the District, it’s almost impossible to build something that’s sustainable.” These statements, along with the Executive

Board's decision, make it appear that the Board is not concerned with what is best for the public, but rather what is best to sustain and maintain a government-run insurance monopoly. A monopoly that relies on the forced closure of the private marketplace for all individuals and small business employers with up to 50 employees

The Executive Board's decision not only tramples on the ability to negotiate an insurance contract, but also eliminates choice by forcing individuals and small businesses to purchase standardized coverage through a monopoly of government-selected and approved health plans. This action will greatly increase costs and significantly reduce competition. Therefore, I request the following information from you, as set forth in this letter:

1. The detailed minutes and transcript of the Health Benefit Exchange Executive Board Meeting on October 3, 2012.
2. Any and all transcripts and minutes relating to the decision made at the Executive Board Meeting on October 3, 2012. Please include all communications, reports, and notes made prior to the October 3rd meeting that led to the decision to force individuals and small businesses to buy health insurance through the Exchange.
3. Mercer LLC conducted an evaluation for the District and recommended that the Executive Board initially refrain from merging the Individual and Small Group insurance pools. The Board chose to disregard this recommendation. Please provide a detailed explanation of this decision.
4. A coalition of 150 small businesses and associations expressed serious concerns in a September letter to the Executive Board about the then proposed changes. Provide a detailed explanation of the Executive Board's consideration of this letter, as well as the Executive Board's consideration of the effect these changes will have on small businesses throughout the District.
5. The District recently received a \$73 million health insurance exchange grant award from the U.S. Department of Health and Human Services. Provide a detailed budget and report of how the D.C. Council and the Executive Board anticipate allocating and spending this award.
6. Provide a detailed budget, report, and explanation of the anticipated costs of administering the Exchange. Please include a breakdown of how federal funds will be used in the implementation and administration of the Exchange.
7. Provide any and all communications or feedback between any D.C. government entity, or contracted surrogate, and the U. S. Department of Health and Human Services regarding the proposal and framework that was approved on October 3, 2012.
8. Provide the detailed timeline in place for public comment and input as the D.C. Council crafts the legislation for the proposed changes.

9. Provide clarification of the latitude that the Executive Board has to take legislative or regulatory action without approval by the D.C. Council.

Please provide this information both in hard copy and in an electronic and searchable format no later than 5PM on November 2, 2012 to Ritika Rodrigues on the Senate Homeland Security and Governmental Affairs Committee. Questions can be directed to Ms. Rodrigues at (202) 224-5635 or Ritika_Rodrigues@hsgac.senate.gov.

The Executive Board has made it clear that the sustainability of the exchange itself, rather than the best interest of consumers have been the driving factor in the unprecedented decision to eliminate the private insurance marketplace in the District. These actions have gone beyond even the restrictions on free enterprise that were codified in the President's health care law. In order to more fully understand and discuss the Exchange Board's decision, I would like to meet with Health Reform Implementation Committee members Wayne Turnage, William P. White, and Dr. Mohammad N. Akhter. Please contact Ritika Rodrigues on the Senate Homeland Security and Governmental Affairs Committee at (202) 224-5635 or Ritika_Rodrigues@hsgac.senate.gov no later than 5PM on October 19, 2012 to schedule a meeting.

Sincerely,



Senator Ron Johnson
Ranking Member - Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia
Senate Homeland Security and Governmental Affairs Committee

cc: Members, Council of the District of Columbia