

United States Senate
WASHINGTON, DC 20510

September 4, 2018

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar,

The 2010 enactment of the Patient Protection and Affordable Care Act (P.L. 111-148), also known as Obamacare, broke with the longstanding safeguards of the Hyde Amendment. For more than 40 years, the Hyde Amendment prohibited federal funding for elective abortions and health insurance plans that include coverage for elective abortions. Since that time, legislative proposals like No Taxpayer Funding for Abortion and Insurance Full Disclosure Act (S. 184) have been introduced in the Senate to remedy this severe problem with Obamacare. Until S. 184 is enacted into law, the Administration must take steps to mitigate Obamacare's unprecedented expansion of abortion coverage.

In an effort to subvert the Hyde Amendment, Democrats established separate abortion accounting requirements in Section 1303 of Obamacare (42 U.S.C. § 18023). If an insurance issuer elects to offer abortion coverage, Section 1303 requires separate payment of at least \$1 per enrollee per month as an abortion surcharge. While a plain reading of the statute makes clear that this surcharge must be separate from other payments, the Obama Administration failed to enforce Section 1303 and undermined the segregation of funds requirement through permissive regulations.

While we welcomed Centers for Medicare and Medicaid Services' October 2017 guidance regarding enforcement of Section 1303, meaningful enforcement requires new regulations. The Department of Health and Human Services (HHS) should issue new regulations that align with legislative intent that insurance companies comply with and collect the abortion surcharge separately. Faithfully applying the law as written through new regulations will improve consumer awareness of the abortion surcharge.

The federal government should not provide taxpayer funding for abortion-covering plans. However, until this procedure that is morally opposed by a significant number of Americans is eliminated from Obamacare, HHS must enforce the law as written. As long as Section 1303 is implemented through current Obama-era regulations, its enforcement will remain sorely deficient.

Thank you for your consideration of this matter.

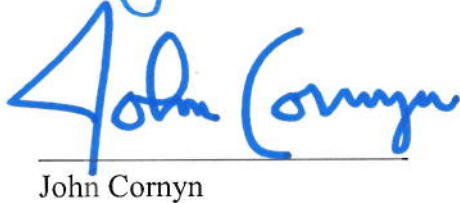
Sincerely,



Roger F. Wicker



Roy Blunt



John Cornyn



Mike Crapo



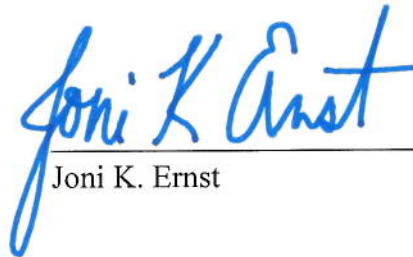
Ted Cruz



Steve Daines



Michael B. Enzi



Joni K. Ernst



Deb Fischer



John Hoeven



Cindy Hyde-Smith



James M. Inhofe



Jerry Moran


James E. Risch


Pat Roberts


M. Michael Rounds


Marco Rubio


John Thune


Todd Young