

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 21, 2018

The Honorable Trey Gowdy  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to request that you issue a subpoena to compel the Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS) to produce documents being withheld regarding the scrubbing of content from the Medicare.gov website.

On August 7, 2018, I wrote to HHS Secretary Alex Azar and CMS Administrator Seema Verma requesting information and documents regarding the decision to scrub information about the Affordable Care Act (ACA) from the Medicare.gov website.<sup>1</sup> According to the nonpartisan Sunlight Foundation, the Trump Administration has removed numerous webpages containing information about how Medicare coverage relates to the ACA.<sup>2</sup>

I also reiterated my April 6, 2018, request for documents regarding the Trump Administration's prior decision to scrub information about breast cancer, preventive services guaranteed by the ACA, and various LGBTQ health issues from the website for the Office of Women's Health, which is maintained by the communications firm Hager Sharp.<sup>3</sup>

On August 31, 2018, I received a response from Administrator Verma stating that the "Affordable Care Act & Medicare" webpage was removed from the Medicare.gov website "[b]ased on the inclusion of outdated content and low page traffic" and that "relevant

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<sup>1</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Secretary Alex M. Azar, Department of Health and Human Services, and Administrator Seema Verma, Centers for Medicare and Medicaid Services (Aug. 7, 2018) (online at [democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-08-07.EEC%20to%20Azar-HHS%2C%20Verma-CMS%20re%20ACA%20Website%20information.pdf](https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-08-07.EEC%20to%20Azar-HHS%2C%20Verma-CMS%20re%20ACA%20Website%20information.pdf)).

<sup>2</sup> Sunlight Foundation, Web Integrity Project, *Removal of the "Affordable Care Act & Medicare" Webpage and Corresponding Links from the Medicare Website* (May 15, 2018) (online at <https://sunlightfoundation.com/wp-content/uploads/2018/05/AAR-5-CMS-Medicare-ACA-180515.pdf>).

<sup>3</sup> *HHS Strips Lesbian, Bisexual Health Content from Women's Health Website*, Politico (Mar. 21, 2018) (online at [www.politico.com/story/2018/03/21/hhs-strips-lesbian-bisexual-health-content-from-womens-health-website-430123](http://www.politico.com/story/2018/03/21/hhs-strips-lesbian-bisexual-health-content-from-womens-health-website-430123)).

information” had been transferred to the “Medicare & the Marketplace” webpage.<sup>4</sup> However, the Administrator did not produce any of the requested documents or provide an explanation of the process by which website content was deemed “relevant.”

It appears that critical information contained on “The Affordable Care Act & Medicare” page has not been transferred to the “Medicare & the Marketplace” webpage—including information about reduced-cost preventive services and discounts on prescription drugs guaranteed by the ACA. In addition, unlike “The Affordable Care Act & Medicare” webpage, the “Medicare & the Marketplace” webpage does not explicitly refer to the ACA when describing the services and benefits established by the law.<sup>5</sup>

I remain concerned that the deletion of this content from Department websites may violate the Paperwork Reduction Act, which requires agencies to “provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products.”<sup>6</sup> Furthermore, the repeated removal of content from Department websites raises serious questions about the Trump Administration’s commitment to the health and well-being of the American people, including seniors.

For these reasons, I request that you issue a subpoena to compel the Department to produce the following documents, which have been withheld:

- (1) all documents and communications referring or relating to the removal or relocation of content on websites maintained by the Department or entities contracted by the Department from January 21, 2017, to the present;
- (2) all communications between Department employees and Hager Sharp from January 21, 2017, to the present, including all documents and communications referring or relating to the removal or relocation of content on websites maintained by the Department or entities contracted by the Department;
- (3) all documents and communications referring or relating to any reviews or audits of content on websites maintained by the Department or entities contracted by the Department for three prior calendar years, including all documents and communications referring or relating to a “comprehensive audit and use analysis

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<sup>4</sup> Letter from Administrator Seema Verma, Centers for Medicare and Medicaid Services, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Aug. 31, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/HHS.083118.Response%20to%20EEC%20re%20ACA%20Website%20Information.pdf>).

<sup>5</sup> Centers for Medicare and Medicaid Services, *Medicare.gov: The Affordable Care Act & Medicare* (Nov. 27, 2017) (online at <http://web.archive.org/web/20171127132259/https://www.medicare.gov/about-us/affordable-care-act/affordable-care-act.html>); Centers for Medicare and Medicaid Services, *Medicare & the Marketplace* (online at <https://www.medicare.gov/about-us/medicare-the-marketplace>) (accessed Sept. 20, 2018).

<sup>6</sup> 44 U.S.C. § 3506(d)(3).

process” of websites maintained by the Department or entities contracted by the Department; and

- (4) all policies or procedures governing the modification or removal of information from public-facing websites maintained by the Department or entities contracted by the Department.

If you decide not to issue this subpoena, then I ask that you place this matter on the agenda for our next regularly scheduled business meeting so all Committee Members will have the opportunity to debate and vote on this motion.

Thank you for your consideration of this request.

Sincerely,

  
Elijah E. Cummings  
Ranking Member