Congress of the United States
Washington, DC 20515

August 21, 2017

Jacqueline K. Cunningham
Commissioner of Insurance
Virginia Bureau of Insurance
P.O Box 1157
Richmond, VA 23218-1157

Dear Commissioner Cunningham:

We write regarding ways in which the Bureau of Insurance can provide greater transparency for 2018 health insurance premiums and protect Virginia consumers from increased costs due to uncertainty in the insurance market created by the Trump Administration. We are concerned that efforts in Congress to repeal the Affordable Care Act (ACA), coupled with the Trump Administration's efforts to sabotage the law, will increase 2018 premiums for ACA-compliant plans in the Virginia Marketplace. Kaiser Family Foundation recently published a report finding that the mixed signals coming from the Trump Administration have disrupted the health insurance Marketplace and will likely be the driving force behind large premium increases for 2018.

President Trump took office and immediately launched a campaign of sabotage against the ACA by signing an Executive Order directing Federal agencies to cease enforcement of the ACA. Since then, the Trump Administration has refused to commit to enforcing the individual mandate and discontinued much of the advertisement and outreach activities to encourage ACA enrollment.

Most troublingly, the Trump Administration has refused to commit to paying Cost Sharing Reductions (CSR), which are required to be paid under the ACA. These payments keep insurance affordable for 7.1 million Americans and 218,241 Virginians.[1] Withholding them, as the President has threatened to do, will be catastrophic for these Virginians and their families. The actuaries at Oliver Wyman Health concluded that up to two-thirds of 2018 rate increases "will be attributable to the CSR and individual mandate uncertainty."[2] Just this week, the Congressional Budget Office found that terminating CSR payments will increase premiums by 25% by 2020.[3]

Additionally, Republicans in Congress have advanced ACA-repeal proposals that would leave more than 20 million fewer Americans with health coverage, reinstate abusive insurance practices, and raise the cost of health insurance. Despite the repeal effort failing in the Senate for the time being, the uncertainty that these efforts have created for consumers and insurers is undeniable.

Health insurers in Virginia and across the United States have warned that this campaign of sabotage will cause higher premiums and fewer choices. In its rate filing CareFirst Blue Cross Blue Shield is requesting a 35% increase in Virginia citing the assumption that "the coverage mandate introduced by ACA will not be enforced

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[1] Kaiser Family Foundation, *Total Marketplace Enrollment and Financial Assistance,* (February 2017), available at: http://www.kff.org/health-reform/state-indicator/total-marketplace-enrollment-and-financial-assistance/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

[2] Oliver Wyman Health, *Analysis: Market Uncertainty Driving ACA Rate Increases*, (June 14, 2017) available at: http://health.oliverwyman.com/transform-care/2017/06/analysis_market_unc.html

[3] Congressional Budget Office, *The Effects of Terminating Payments for Cost-Sharing Reductions*, (August 2017) available at: https://www.cbo.gov/publication/53009?utm_source=feedblitz&utm_medium=FeedBlitzEmail&utm_content=812526&utm_campaign=Express_2017-08-15_15%3a00

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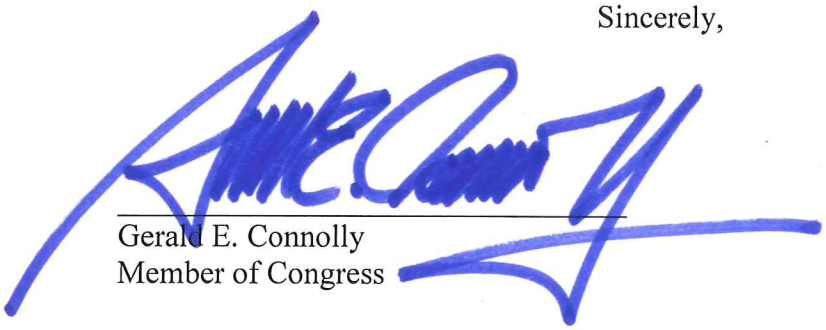
in 2018."[4] Optima stated in its rate filing, "The premium rates developed are based upon regulatory and legislative provisions in effect at the time of this filing, including, but not limited to, the funding of Cost-Sharing Reduction (CSR) payments and continuation and enforcement of the individual mandate. If these provisions materially change, then these rates may no longer be appropriate and will need to be withdrawn and refiled."[5]

We believe that we must be proactive in mitigating uncertainty in the market, and therefore respectfully offer our proposed mitigation strategies—which other state insurance commissioners have supported — including directing insurers to:

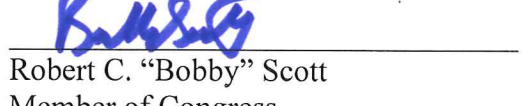
1. Re-file their individual market plans with two sets of proposed rates—one that accounts for continued CSR payment, and another without CSRs; and
2. Factor the increased cost due to nonpayment of CSRs into silver-tier marketplace plans to ensure that Virginia consumers receive premium tax credits that rise according to the cost of their health insurance. Concurrently, as planned in California[6], require issuers to offer a non-mirrored silver plan off the exchange so consumers ineligible for premium subsidies do not incur an increase in silver plan premiums due to CSR uncertainty.

We commend the Governor and his administration for their leadership in efforts to provide quality, affordable healthcare to hardworking Virginia families—including efforts to expand Medicaid—and look forward to working together to redress market instability and other hurdles to ensuring health insurance options for all Virginians.

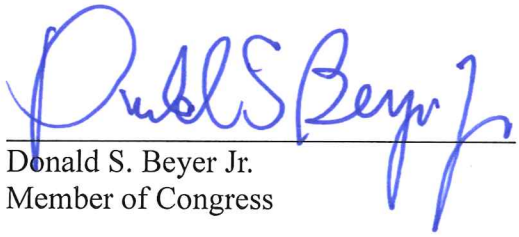
Sincerely,



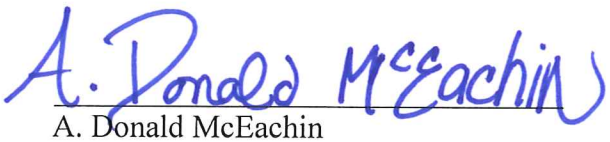
Gerald E. Connolly
Member of Congress



Robert C. "Bobby" Scott
Member of Congress



Donald S. Beyer Jr.
Member of Congress



A. Donald McEachin
Member of Congress

[4] CareFirst Blue Cross Blue Shield, *Part III Actuarial Memorandum.*

[5] Milliman, Inc., *Part III Actuarial Memorandum, Optima Health Insurance Company, Individual Medical Rate Filing, Effective January 1, 2018,* (April 28, 2017) available at: https://ratereview.healthcare.gov/files/1023591_I_OHP_PartIII_Memo_20170714.pdf

[6] Covered California, *Covered California's Health Insurance Companies and Plan Rates for 2018, page 7* (August 2017), available at: http://www.coveredca.com/news/PDFs/CoveredCA_2018_Plans_and_Rates_8-1-2017.pdf