

November 8, 2018

The Honorable Henry J. Kerner  
Special Counsel  
Office of Special Counsel  
1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505

Re: Supplement to CREW's November 2, 2018 Complaint Against Seema Verma

Dear Special Counsel Kerner:

On November 2, 2018, Citizens for Responsibility and Ethics in Washington (“CREW”) filed a complaint with the Office of Special Counsel (“OSC”) regarding a violation of the Hatch Act by Seema Verma, Administrator of the Centers for Medicare & Medicaid Services (“CMS”). OSC confirmed receipt of that complaint the same day. As a supplement to that complaint, we respectfully submit the three enclosed documents.

The first document is a *Politico* article revealing that Ms. Verma’s activities were part of a White House-coordinated effort to use government authority and resources to influence yesterday’s election. Citing two sources, the article also implicates Department of Health and Human Services (“HHS”) Secretary Alex Azar and unnamed White House officials:

The Trump administration identified ‘Medicare for All’ as a wedge issue earlier this year. . . . The White House then enlisted Verma and HHS Secretary Alex Azar to criticize the idea across the summer, which was intended to offer credibility and tee up this fall’s attacks.

Verma and Azar have since mocked the idea repeatedly, beginning with Verma’s suggestion in July that “Medicare for All would become Medicare for None,” arguing that expanding Medicare would multiply its existing flaws. . . . The White House, HHS and CMS all declined to answer questions about the strategy. But sources said they are delighted with the attention on Verma’s tweet, which has likely been seen by millions of people and led news outlets to acknowledge the shortcomings of “Medicare for All” just days before the election.<sup>1</sup>

The second and third documents are a blog entry written by Ms. Verma on the official CMS website and an associated tweet.<sup>2</sup> Posted two workdays before the election, the blog entry

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<sup>1</sup> Dan Diamond, [Inside the White House plan to target 'Medicare for All'](https://politi.co/2Dl3rxv), *Politico*, Nov. 2, 2018, (bold text omitted), <https://politi.co/2Dl3rxv>.

<sup>2</sup> CMS Blog, [Medicare for All? Just another name for a government-run, single payer system](https://go.cms.gov/2DmojnR), Nov. 2, 2018, <https://go.cms.gov/2DmojnR> (“CMS Blog”); Administrator Seema Verma (@SeemaCMS), Twitter (Nov. 2, 2018), <https://bit.ly/2PLuPus>.

reiterates the partisan talking points about “Medicare for All.” It also references remarks by the President—on HHS property, to HHS employees, during working hours—in which he criticized the Democratic party.<sup>3</sup>

Ms. Verma’s blog entry must be viewed in the context we described in our complaint. Ms. Verma retweeted former Trump campaign senior advisor Boris Epshteyn’s statement that she opposes the “Democrat-backed ‘Medicare For All’” plan.<sup>4</sup> In addition, media outlets have described “Medicare for All” as a campaign talking point associated with the upcoming elections.<sup>5</sup> A piece in *The Atlantic* notes Ms. Verma’s connection to this partisan talking point:

A more coherent if more fanciful Republican argument goes after Medicare for All, the Democrats’ long-term promise of providing universal public coverage. “They want to raid Medicare to pay for socialism,” Trump said at a rally in Indiana in August. Florida Governor Rick Scott, among other conservatives, has picked up the attack line. (So has the program’s federal administrator, Seema Verma, tweeting this week, “Medicare for All isn’t a joke. It’s a multi-trillion dollar drain on the American economy that will bankrupt future generations.”)<sup>6</sup>

The Hatch Act prohibits Ms. Verma, Secretary Azar, and any White House officials other than the President or Vice President from undertaking activity directed toward the success or failure of a political party while using their official positions. OSC should investigate this matter and recommend appropriate disciplinary action against them.

Sincerely,



Noah Bookbinder  
Executive Director

## Enclosures

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<sup>3</sup> CMS Blog (“As President Donald Trump explained in his recent address, Medicare is a price taker for drugs administered in physicians’ offices under the Part B program.”); White House, [Remarks by President Trump on Prescription Drug Prices](#), Oct. 25, 2018 (“Sadly, a majority of Democrats in the House of Representatives have co-sponsored a very socialist healthcare plan that would destroy Medicare, terminate Medicare Advantage, and outlaw the employer-sponsored healthcare plans of 157 million Americans.”), <https://bit.ly/2OrIsKg>.

<sup>4</sup> Administrator Seema Verma (@SeemaCMS), Twitter (retweet at approximately 1:45 p.m., Oct. 31, 2018), <https://twitter.com/SeemaCMS?lang=en> (original tweet by Mr. Epshteyn at <https://bit.ly/2yFSsuz>).

<sup>5</sup> See David Weigel, [Republicans want to run on Medicare. Democrats say bring it on](#), *Washington Post*, Sept. 18, 2018, <https://wapo.st/2OjOBYX>; Julie Rovner, [GOP Revives Medicare Scare Tactics As Election Nears](#), *NPR*, Oct. 30, 2018, <https://n.pr/2EV7RN1>.

<sup>6</sup> Annie Lowrey, [The One Issue That’s Really Driving the Midterm Elections](#), *The Atlantic*, Nov. 2, 2018, <https://bit.ly/2P8Wt4Q>.

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## Inside the White House plan to target 'Medicare for All'

By DAN DIAMOND (ddiamond@politico.com; @ddiamond) 11/02/2018 10:00 AM EDT | Updated 11/02/2018 10:26 AM EDT

*With help from Paul Demko, Sarah Karlin-Smith and Rachel Roubain*

*Editor's Note: This edition of Free Morning Pulse is published weekdays at 10 a.m. POLITICO Pro Health Care subscribers hold exclusive early access to the newsletter each morning at 6 a.m. To learn more about POLITICO Pro's comprehensive policy intelligence coverage, policy tools and services, click here.*

A top HHS adviser has passed away, and the first TrumpCare association health plan appears to be imminent.

But first: New details about the Trump administration's health care strategy ahead of the midterms.

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a strategy crafted by the White House months ago, two individuals with knowledge tell PULSE.

— **The Trump administration identified 'Medicare for All' as a wedge issue** earlier this year, noting that many Democrats — including vulnerable swing-state lawmakers — were hesitating to endorse the plan given the uncertainty around its costs and the implications for seniors.

The White House then enlisted Verma and HHS Secretary Alex Azar to criticize the idea across the summer, which was intended to offer credibility and tee up this fall's attacks.

— **Verma and Azar have since mocked the idea repeatedly**, beginning with Verma's suggestion in July that "Medicare for All would become Medicare for None," arguing that expanding Medicare would multiply its existing flaws.

Azar then attacked the idea in a September speech to Nashville health care executives — a hand-picked, lower-profile forum than his usual remarks in Washington, D.C., given the secretary's months-long reservations about making the attack, said one source. (An HHS spokesperson disputed this, suggesting that Nashville was chosen for Azar's Medicare speech because the city is an innovation hub.)

— **President Donald Trump in September began echoing the attacks** on the campaign trail. And his name was on an unusual, discredited op-ed that ran in USA Today in October.

— **The White House, HHS and CMS all declined to answer questions about the strategy.** But sources said they are delighted with the attention on Verma's tweet, which has likely been seen by millions of people and led news outlets to acknowledge the shortcomings of "Medicare for All" just days before the election.

"Our administration ... is proud that Secretary Azar and Administrator Verma are at the forefront of the Administration's patient-centered healthcare policies," Lindsay Walters, White House deputy press secretary, told PULSE.

And Verma has no regrets, an official said, despite many CMS career staff telling PULSE that they're frustrated that their boss has publicly mocked one of her own programs. "As

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Blog

Nov, 02 2018

# CMS BLOG: Medicare for All? Just another name for a government-run, single payer system

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By: Seema Verma,, Administrator, Centers for Medicare & Medicaid Services

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November 2, 2018

## Medicare for All? Just another name for a government-run, single payer system.

If your instincts tell you something is too good to be true, then maybe it is. When listening to those advocating 'Medicare for All' it's good to be skeptical about their promises. As head of the agency that serves over 58 million Medicare beneficiaries, I deal first-hand with the challenges of government run healthcare.

Medicare has a plethora of misaligned financial incentives that work to increase costs for taxpayers and beneficiaries, and create challenges related to fraud and abuse. Less than two-tenths of one percent of Medicare's one billion annual claims are reviewed for program integrity issues. Those advocating 'Medicare for All' due to lower administrative costs need to understand those costs are lower principally (or: in part) because of an under-funded, inadequate system of review to detect

fraud and abuse. The law doesn't allow CMS to do the types of reviews that have become routine in the private sector, leading to a high frequency of improper payments, and more fraud and abuse. Medicare also pays differently for the same service in different settings, reducing competition and increasing market consolidation, which leads to higher prices for the entire system. Just look at the decreasing numbers of doctors.

Medicare's system of paying for drugs today is another prime example of what doesn't work. As President Donald Trump explained in his recent address, Medicare is a price taker for drugs administered in physicians' offices under the Part B program. This results in other countries getting a much better deal than America; we essentially have been subsidizing other countries for years.

What's worse, Medicare actually fuels higher drug prices, by paying doctors and hospitals an add-on fee for drugs that is set at a percentage of the cost of the drug. With this setup, it's no wonder that prescription drugs represent Medicare's fastest-growing area of spending, with spending on Part B drugs increasing at an annual rate of 9.8 percent from 2011-2016, from \$17.6 billion to \$28.0 billion. Instead of expanding a flawed program, the Trump Administration is committed to fixing the problems in the current system, such as through the historic International Pricing Index model intended to lower drug costs in Medicare.

However, drug costs aren't the only challenge. The Medicare trustees have voiced concern about the solvency of the entire program. 'Medicare for All' would further put the program's funding into jeopardy.

To understand the world we would live in under government-run 'Medicare for All', it's important to understand the market dynamics in place today. Doctors receive less from their Medicare reimbursement than they do from private insurance for the same services. In essence, 170 million Americans in private insurance subsidize the care provided to 60 million Americans in Medicare.

Under 'Medicare for All' you either take private insurance away from those 170 million Americans, or greatly restrict access to it, meaning there is no relief valve for physicians facing up to 40 percent payment cuts.

You can see where this is heading: doctors will be forced to provide care for substantially lower fees for everyone, driving many out of the practice of medicine. All Americans will soon have fewer physicians who will see them. Wait lists will become a regular feature of American care. And unlike for Canadians and Europeans, who can come to America to avoid a wait list for an important procedure, there will be no America to serve as our saving grace when wait lists for procedures become part of the American system of health care. Just look at other socialized health care systems around the world - under 'Medicare for All' patients could wait up to six months or longer for a hip replacement, or worse, up to 48 hours for an emergency room operation.

Without higher premiums from commercial insurance subsidizing today's Medicare population, Medicare could be severely undermined for the seniors who use it today.

Consider also the cost to taxpayers. One recent study estimates 'Medicare for All' would cost \$32.6 Trillion.<sup>[1]</sup> That means, if implemented by 2022, healthcare spending would grow from 28 percent of the federal budget to 58 percent of the budget. Imagine funding the rest of government, from defense to education, at a level 30 percent less than today, or imagine a \$2.5 Trillion tax hike, because the cost of health care to the government would more than double.

Ask yourself why proponents of 'Medicare for All' are advocating such a radical reform of health care just five years after the full implementation of the Affordable Care Act (ACA), often referred to as Obamacare. It is certainly not because the ACA has worked. After the ACA took effect, premiums skyrocketed and choice dwindled. Average premiums on the Federal exchange more than doubled between 2013 and 2017 and, today, half of counties across America have just one insurer offering coverage on the exchanges. While the Trump Administration has worked to strengthen the markets and helped reduce premiums by two percent, premiums still remain far too high. Sadly, instead of recognizing the problems with the ACA – namely the implementation of government-run, highly regulated insurance plans – 'Medicare for All' proponents want to double down on what has failed.

We need to focus on a conversation about the drivers of health care costs in America, where health care spending is on course to eclipse one-fifth of national GDP by 2026. The answer to the skyrocketing cost

curve is not greater government intervention leading to the evisceration of the private insurance marketplace, but just the opposite: increase choices, unleash private competition, innovation, and lighten regulations on plans, doctors and providers.

It's time to move to a patient-centered, value-based system. Let's give consumers the information and tools they need to make decisions about their care. Let's create a more robust, private market with competition for consumers, and a variety of benefit plans. Let's stop government intrusions into care, where Washington bureaucrats set the price of plans and limit the options states can offer.

'Medicare for All' is Obamacare on steroids. It could destroy Medicare for those who need it today, our elderly population, by doubling down on the worst aspects of Obamacare. It's time to change course, with fewer edicts from Washington, more benefits for patients, and increased competition to reduce premiums.

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[1] <https://www.mercatus.org/publications/federal-fiscal-policy/costs-national-single-payer-healthcare-system>

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Nov 02, 2018





**Administrator Seema Verma** ✓

@SeemaCMS



Medicare for All? Just another name for a government-run, single payer system. Read more here about why [#MedicareForAll](#) is not the answer: [cms.gov/blog/cms-blog-...](#)

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