

# United States Senate

WASHINGTON, DC 20510-4705

October 6, 2010

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Commissioner  
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Commissioner Kreidler,

I am proud to have played a significant role on the Senate Finance Committee to draft provisions to protect consumers and increase access to affordable health care in the Patient Protection and Affordable Care Act (Affordable Care Act) (P.L. 111-148). This historic legislation ends decades-long discrimination by insurers who have denied coverage to the most sick and vulnerable Americans, as they amassed large profits and paid exorbitant executive compensation packages. With the passage of this law, Washingtonians do not have to worry that they will lose their coverage when they get sick or change jobs. Young adults can stay on their parents' health insurance plans and do not have to worry about how they will pay medical bills. On September 23, 2010, several significant provisions became effective, including: the end of rescissions, the elimination of pre-existing condition exclusions for children, the elimination of lifetime limits on coverage, regulations on annual limits, the extension of coverage to young adults up to age 26, and the coverage of over 100 preventive health services, among others. These are consumer-focused and consumer-directed provisions. Therefore, I was deeply disappointed to learn that, in conjunction with these consumer protection provisions, Regence Blue Shield has taken a step back and stopped offering child-only policies and significantly raised 2011 premiums for policy holders in Washington State, with some premiums increasing as high as 37 percent. I am particularly concerned that in recent correspondence to Washington policy holders, which constituents have shared with me, Regence attributes these significant 2011 premium increases to the Affordable Care Act (although this is the fourth year in a row that Regence has raised premiums by double digits). Among the tools that the Affordable Care Act gives to states to fight against such unjustified premium increases is the power to deny insurers who unjustifiably raise rates the ability to participate in the state exchange. Based upon Regence's recent actions, this may be an action that I would recommend that your office take in order to protect consumers. Blaming these premium increases on the Affordable Care Act is clearly contrary to analysis and estimates about the law's impact on premiums and only perpetuates misunderstanding and misinformation about the law.

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According to early estimates and analysis, any impact on premiums due to the Affordable Care Act's increased coverage and new consumer protections should be minimal. According to analysis by the Urban Institute, citing federal estimates, the Affordable Care Act provisions related to annual and lifetime limits should increase group premiums by about one-half to one percent, and will increase non-group premiums by less than one percent. In addition, out-of-pocket costs will fall, leading to "very significant savings for those with serious health care needs." The same study states that prohibitions against pre-existing condition exclusions for children should have "little to no impact on the small group market." This provision will also decrease out-of-pocket costs. In addition, federal agency estimates show that the average effect of the prohibition on pre-existing condition exclusions for children will be 1 percent or less in the non-group market. Estimates on group market premium impacts from the provision extending coverage for young adults on parents' policies up to age 26 range between .5 to 1.2 percent of premiums, depending upon participation assumptions made. Other provisions in the law, including an individual mandate, which creates a larger risk pool of individuals, exceptions to some of the law's requirements for "grandfathered plans" (in existence on the March 23, 2010 date of enactment of the law), are designed to *lower* costs, not increase them. In a September 9, 2010 letter to America's Health Insurance Plans (AHIP), Secretary Sebelius stated, "[a]ccording to our analysis and those of some industry and academic experts, any potential premium impact from the new consumer protections and increased quality provisions under the Affordable Care Act will be minimal." According to the Bureau of Labor Statistics, medical inflation is currently projected to be 3.2 percent in 2010. The Kaiser Family Foundation concluded that family premiums were rising only 3 percent for 2009-2010. Premiums could be impacted by other factors including, rating practices in markets across states and the current ways in which individuals and small groups are priced by variables such as age and geography. However, as the Urban Institute's analysis concludes, "[I]t is fair to say that the provisions implemented in 2010 will have very little effect, in general."

In addition to these premium increases, I was also disappointed to learn that Regence will no longer offer child-only policies, effective October 1, 2010. This action coincides with the September 23, 2010 enactment of the Affordable Care Act's provision requiring that insurers no longer deny coverage to children with pre-existing conditions. Your office even acted to help lessen insurers' risk by creating an open enrollment period from November 1-December 15, 2010, to mitigate against the possibility of consumers waiting to add child coverage only when children get sick. Regence's decision to no longer offer child-only policies negatively impacts the most vulnerable of Washington's low-income children. At this time, Regence is the only insurer in the state to take this action. According to a Regence representative, child-only policies represent only about 2,500 policies out of more than 800,000 to 1 million policies Regence

covers. Given this proportion, it is hard to understand the economic incentive for pulling out of the child policy market. These kinds of discriminatory acts are exactly what the Affordable Care Act is designed to prevent in order to ensure that consumers are protected and their needs are not overshadowed by the desire to profit.

The Affordable Care Act gives states resources and review powers to end discriminatory behavior by insurers and prevent unreasonable premium increases. Today, 46 states, including Washington, are using resources under the new law to pass or strengthen rate review laws, which will keep rates low. In August of 2010, Washington State received \$1 million in federal grant money to review health insurance rates and increase transparency for the public. The Affordable Care Act provides states with \$250 million in Health Insurance Premium Review Grants over five years to help level the playing field by providing consumers with information and holding insurers accountable for unjustified premium increases. Your proposal for use of the grant funding includes enhancing information technology to get more detailed rate information from health insurers and increasing transparency for consumers on how health insurance premiums are determined. This empowers consumers to make coverage decisions and compare rates. Proposed increases have already been rejected in California, Massachusetts, and Maine. Starting in 2011, the Department of Health and Human Services (HHS) will also have new tools to address rate increases, including a requirement for insurers to publicly justify any unreasonable increases and post them on their websites. Also in 2011, insurers will be required to spend at least 80 percent of premium dollars on health care, instead of salaries, overhead, or administrative expenses. Those that fail to do so will be required to provide a rebate to their consumers. These are protections for consumers, who for too long, have been subject to arbitrary increases while insurers pocket record profits.

It is my hope that insurers like Regence will work with Congress, HHS, the Administration, and your office to comply with the Affordable Care Act, end discriminatory practices, and ensure continued access to affordable coverage for consumers. If Regence chooses to continue anti-consumer policies, I ask that you explore all consequences, including exclusion from the state exchange. I will be following up with Regence to secure documentation linking premium increases to the health reform law. Since Regence is choosing to no longer cover children and find other ways around complying with the law, such documentation would be helpful in explaining how the law is impacting Regence's premium rates. The Affordable Care Act is designed to protect consumers, end discrimination against those with pre-existing conditions, expand coverage, and put consumers' health and well-being before insurers' bottom lines. I hope that you will hold Regence and other insurers who seek to undermine and circumvent the law accountable for their actions. Thank you for your work to ensure that Washington consumers are protected and I hope that you will continue to work with me and other members

of Congress, HHS, and the Administration towards the common goal of ensuring that all Washingtonians have access to affordable health insurance options.

Sincerely,

A handwritten signature in blue ink, appearing to read "Maria Cantwell", written in a cursive style.

Maria Cantwell  
U.S. Senator