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May 19, 2022

President Joe Biden  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20050

Dear President Biden:

We write to express our concerns regarding the Biden administration's continuation of the COVID-19 public health emergency (PHE) declaration and to call on the administration to release its plan to wind down the PHE and begin transitioning the purchasing, distribution, and coverage of COVID-19 vaccines, treatments, and tests to the private market. We further call on the administration to work with employers, health care plans, and states to help Medicaid enrollees, who may no longer qualify for Medicaid when the PHE expires, transition to employer-sponsored plans when eligible. We also question the requests for new COVID-19 spending measures when the administration has acknowledged the pandemic is over. Lastly, we encourage the administration to provide consistent and factual information regarding the end of the pandemic.

### Need for Offramp Plan

As the federal government looks to wind down the COVID-19 PHE and transition away from purchasing all COVID-19 vaccines, the Biden administration should quickly inform the American public and private insurers of the planned offramp. In the White House's letter to Speaker Pelosi requesting \$22.5 billion in emergency funding, the administration states the consequences of a lack of funding include "no additional purchases of monoclonal antibodies sent to states, fewer tests made in America, fewer treatments for the immune-compromised, and a risk of running short on vaccines."<sup>1</sup> Many of the funding issues raised by the letter can and should be addressed by the commercial health care market. We, therefore, encourage the

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<sup>1</sup> Letter from Shalanda D. Young, Acting Dir., Off. of Mgmt. & Budget, & Jeffrey D. Zients, White House Coordinator for COVID-19 Response, to Speaker Nancy Pelosi (Mar. 15, 2022), <https://www.politico.com/f/?id=0000017f-8e53-d4fc-a1ff-bef76b0b0000>.

administration to take the following actions:

- allow the commercial market, states, and localities to procure and distribute COVID-19 vaccines and boosters;
- allow the commercial market, states, and localities to procure and distribute medical countermeasures, including monoclonal antibody treatments, oral antiviral pills, and preventative treatments for immunocompromised individuals; and
- fully transition the responsibility of COVID-19 testing of privately insured individuals—and maintaining the testing capacity for this population—to the commercial market.

### **Medicaid Transition after the PHE**

Medicaid enrollment is at a record high due to COVID-19 policy changes, with nearly 18 million enrollees added in the past two years and a nearly 17 percent annual increase since the pandemic began.<sup>2</sup> When the PHE ends, millions of Americans may learn that they no longer qualify for health coverage under Medicaid. The *Families First Coronavirus Response Act* required states to suspend Medicaid eligibility terminations and maintain coverage for nearly all existing enrollees for the duration of the PHE.<sup>3</sup> One study estimates that 65 percent of Americans who will no longer qualify for Medicaid will qualify for employer-sponsored coverage. Only 1.6 percent of individuals are expected to have no health coverage options.<sup>4</sup>

We are concerned that the Biden administration is not offering clear guidance to plans, employers, navigators, and brokers on informing patients of their employer-sponsored coverage options. The administration should also include information about individuals' employer-sponsored coverage options in its public health care coverage and access documents, outreach, and advertisements. When asked at a Committee hearing about how the administration plans to address the Medicaid redetermination cliff and ensure individuals on Medicaid are aware of their private coverage options other than ACA exchanges, Secretary Becerra stated only that the administration is working with states. He did not mention engagement with employer groups, private businesses, plans, third-party administrators, or navigators.<sup>5</sup> The Biden administration should ensure that any offramp for Medicaid beneficiaries includes private plans and employers so that individuals on Medicaid are informed of their employer-sponsored coverage options.

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<sup>2</sup> JONATHAN BAIN & JONATHAN INGRAM, FOUND. FOR GOV'T ACCOUNTABILITY, HOW THE BIDEN ADMINISTRATION'S PLAN WOULD TIGHTEN THE MEDICAID HANDCUFFS (Mar. 15, 2022), <https://thefga.org/paper/bidens-plan-would-tighten-the-medicaid-handcuffs/>.

<sup>3</sup> Pub. L. No. 116-127, § 6008 (2020).

<sup>4</sup> MATTHEW BUETTGENS & ANDREW GREEN, URBAN INST., WHAT WILL HAPPEN TO UNPRECEDENTED HIGH MEDICAID ENROLLMENT AFTER THE PUBLIC HEALTH EMERGENCY?, (Sept. 2022), [https://www.urban.org/sites/default/files/publication/104785/what-will-happen-to-unprecedented-high-medicaid-enrollment-after-the-public-health-emergency\\_0.pdf](https://www.urban.org/sites/default/files/publication/104785/what-will-happen-to-unprecedented-high-medicaid-enrollment-after-the-public-health-emergency_0.pdf).

<sup>5</sup> *Examining the Policies and Priorities of the U.S. Department of Health and Human Services: Hearing Before H. Comm. on Educ. & Lab.*, 117th Cong. (2022).

## Concerns with New COVID-19 Emergency Spending Measures

Dr. Anthony Fauci, Chief Medical Advisor to the President, recently announced that the United States is now “out of the pandemic phase.”<sup>6</sup> Any American over the age of five can receive a vaccine, and more than 250 million Americans have had at least one dose of a safe, effective COVID-19 vaccine.<sup>7</sup> The federal government has spent over \$5 trillion fighting this pandemic, and more emergency supplemental packages are unlikely to change the endemic nature of this disease.<sup>8</sup> Emergency government intervention and appropriations may have been appropriate during the chaotic and uncertain times of the early pandemic; however, these kinds of measures are no longer smart or fiscally responsible. This includes further extensions of the \$5 billion per month federal student loan repayment moratorium and hundreds of billions in proposed loan forgiveness when college graduates have near-record low unemployment and less than one percent of private student loan borrowers are receiving emergency relief. Further, new emergency COVID-19 funding and broad-based federal student loan forgiveness will only worsen inflation, cost taxpayers even more, delay the inevitable return to pre-COVID-19 health care operations, and further complicate the resumption of student loan payments.

## Inconsistent Information

Lastly, we encourage the Biden administration to provide consistent information regarding the end of the pandemic. COVID-19 case counts, hospitalizations, and deaths have experienced sharp declines compared to a few months ago.<sup>9</sup> Mask and vaccine mandates have been dropped. Nearly all schools are full-time and in-person.<sup>10</sup> The Biden administration contradicts itself by indicating the pandemic is over for illegal immigrants by lifting Title 42 while also maintaining federal mask mandates for children over 2 in Head Start, despite a majority of the Senate voting to strike down the mandate. The administration also maintains masking in transportation, increasing Obamacare subsidies, and expanding Medicaid eligibility. Americans are increasingly frustrated by the administration’s response to the COVID-19 pandemic and are eager to return to normal.<sup>11</sup>

To understand the administration’s plans for transitioning out of the PHE, please provide responses to the following questions by no later than June 3, 2022.

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<sup>6</sup> Dr. Fauci on why the U.S. is ‘out of the pandemic phase,’ PBS NEWS HOUR, Apr. 26, 2022, <https://www.pbs.org/newshour/show/dr-fauci-on-why-the-u-s-is-out-of-the-pandemic-phase-2>.

<sup>7</sup> See *How Vaccinations Are Going in Your County and State*, N. Y. TIMES, Apr. 29, 2022, <https://www.nytimes.com/interactive/2020/us/covid-19-vaccine-doses.html>.

<sup>8</sup> Alicia Parlapiano et al., *Where \$5 Trillion in Pandemic Stimulus Money Went*, N. Y. TIMES, Mar. 11, 2022, <https://www.nytimes.com/interactive/2022/03/11/us/how-covid-stimulus-money-was-spent.html>.

<sup>9</sup> *Coronavirus in the U.S.: Latest Map and Case Count*, N. Y. TIMES, <https://www.nytimes.com/interactive/2021/us/covid-cases.html>.

<sup>10</sup> Lauren Camera, *Nearly 100% of Students Back to School Full Time and In Person*, U.S. NEWS & WORLD REPORT, Dec. 15, 2021, <https://www.usnews.com/news/education-news/articles/2021-12-15/nearly-100-of-students-back-to-school-full-time-and-in-person#:~:text=Ninety%2Dnine%20percent%20of%20public,a%20new%20Education%20Department%20portal>.

<sup>11</sup> Nate Cohn, *Americans Are Frustrated With the Pandemic. These Polls Show How Much*, THE NEW YORK TIMES, Feb. 8, 2022, <https://www.nytimes.com/2022/02/08/us/politics/covid-restrictions-americans.html?msclkid=59a91089c0d011ecbc101a51e689904c>.

### **Questions—Procurement and Distribution of COVID-19 Vaccines, Treatments, and Testing**

1. What is the administration’s strategic plan to wind down the federal government’s purchase of vaccines, treatments, and tests?
2. Can products approved under an Emergency Use Authorization (EUA) be purchased in the commercial market?
3. The Pfizer vaccine is fully approved for individuals above the age of 16 but is under an EUA for other age groups. Can these “mixed-status” products be purchased in the commercial market?
4. Does the administration plan to move to a hybrid model in which some products are still purchased by the government while private purchases are also allowed?
5. If there are additional COVID-19 appropriations, what is the plan for the private purchase of COVID-19 medical countermeasures in the future?
6. When the federal government transitions the purchase and distribution of COVID-19 medical countermeasures to the private sector, insurers will need time to establish new contracts and negotiate prices to purchase products. Does the administration have a plan to provide advanced notice to stakeholders when certain supplies will no longer be provided free of charge?
7. The *American Rescue Plan Act* (ARPA) made \$350 billion available to state and local governments for their COVID-19 response. Much of this funding remains unspent by states.<sup>12</sup> Does the administration plan to allow states to use unspent COVID-19 funds to purchase COVID-19 medical countermeasures?

### **Questions—Medicaid Redetermination**

8. Please describe outreach efforts made by the Department of Labor and the Department of Health and Human Services to engage with private employers, commercial plans, and others regarding individuals’ employer-sponsored health care options and state Medicaid redeterminations.
  - a. How does the administration plan to inform ineligible Medicaid enrollees of their private health coverage options, including employer-sponsored coverage?
  - b. How is the administration advising states to engage with employers and commercial plans when providing guidance to individuals who no longer qualify for Medicaid? How should employers and plans inform these individuals of their private health coverage?
  - c. How is the administration advising navigators and private health brokers to engage with Medicaid beneficiaries who are no longer eligible for the program? How should navigators and brokers inform these individuals of their private health coverage?
9. Please describe any assistance navigators currently provide to individuals seeking to enroll in employer-sponsored health coverage.

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<sup>12</sup> Sheryl Gay Stolberg, *As Biden Pleads for More Covid Aid, States Are Awash in Federal Dollars*, N.Y. TIMES, Apr. 1, 2022, <https://www.nytimes.com/2022/04/01/us/politics/covid-relief-funds.html>.

10. Will plans be required to create a special enrollment period for Medicaid beneficiaries who are no longer eligible for the program?
11. Will a beneficiary's unenrollment in Medicaid be considered a qualifying life event for the purposes of reenrollment in an employer-sponsored plan?
12. Does the administration have a communications plan specifying what plan flexibilities will be revoked at the end of the PHE?

### Questions—COVID-19 Supplemental Request

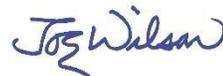
13. In April 2021, HHS notified Congress of a transfer of \$850 million from the Strategic National Stockpile to address unaccompanied alien children (UAC) arriving at or crossing the southern border.<sup>13</sup> Additionally, the administration reprogrammed 2.5 percent (\$1.2 billion) of COVID-19 ARPA funding meant for testing, contact tracing, and mitigation activities to address the influx and care of UACs. In total, \$1.9 billion of ARPA's COVID-19 funding was used to address the crisis at our border.<sup>14</sup>
  - a. Does the administration's \$22.5 billion in emergency funding request include funding for UACs?
  - b. Does HHS anticipate the need to redirect additional COVID-19 emergency relief funding to address the ongoing border crisis?
  - c. Does HHS anticipate additional funding requests to address the testing and COVID-19 mitigation needs of UACs after Title 42 has been lifted?

Any further delay in repealing the PHE declaration will make the eventual transition more difficult and cause more unintended consequences. Milton Friedman warned that “nothing is as permanent as a temporary government program,”<sup>15</sup> and we hope for the sake of American taxpayers that this will not hold true for the Biden administration's COVID-19 policies. We encourage the Biden administration to release publicly its strategic plan to transition our health care system out of the pandemic and back to normal.

Sincerely,



Virginia Foxx  
Ranking Member



Joe Wilson  
Member of Congress

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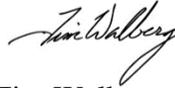
<sup>13</sup> Adam Cancryn, *Biden Admin Reroutes Billions in Emergency Stockpile, COVID Funds to Border Crunch*, POLITICO, May 15, 2021, <https://www.politico.com/news/2021/05/15/hhs-covid-stockpile-money-border-migrants-488427>.

<sup>14</sup> Letter from Dawn O'Connell, Assistant Sec'y for Preparedness & Response, Dep't of Health & Hum. Servs., to Sen. Susan Collins (Mar. 3, 2022).

<sup>15</sup> Mark Perry, *Ten classic Milton Friedman quotes*, AEI, May 3, 2015, <https://www.aei.org/carpe-diem/ten-classic-milton-friedman-quotes/>.



Glenn "GT" Thompson  
Member of Congress



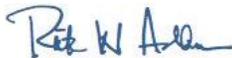
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Member of Congress



Chris Jacobs  
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cc: Secretary Martin J. Walsh  
U.S. Department of Labor

Secretary Xavier Becerra  
U.S. Department of Health and Human Services

Secretary Miguel Cardona  
U.S. Department of Education