

December #, 2017

Dear Senator:

The undersigned organizations, representing [workers, healthcare providers, public health experts, women, people of color, consumers, and people of faith] strongly urge you to vote against confirming Alex Azar to be Secretary of Health and Human Services (HHS). We are deeply concerned by statements made by Mr. Azar as well as his record at the pharmaceutical firm Eli Lilly and Company. For the following reasons, we believe that elevating Mr. Azar to Secretary of HHS would be detrimental to Americans' access to quality, affordable health care across the country.

Mr. Azar has stated that he believes the Affordable Care Act (ACA) is "circling the drain" and that we have a "fundamentally broken system."¹ While too many people around the country still lack access to affordable health care, the ACA expanded health insurance coverage and access to health care services for millions of Americans. Under the ACA, the number of uninsured fell from 41.8 million to 28.1 million from 2013 through 2016, and the uninsured rate fell sharply across a number of populations.^{2,3}

Mr. Azar has spoken in favor of converting Medicaid funding into block grants, including when he appeared before the Senate HELP Committee in a hearing on his nomination.^{4,5} Converting Medicaid into a block grant program would fundamentally alter the program by ending guaranteed coverage and capping federal funding of program costs without regard for program needs.⁶ Such fundamental changes would require states to scale back their Medicaid programs, threatening the services on which millions of Americans depend, including long-term care for the elderly and people with disabilities.

Mr. Azar has stated that he does not believe the expansion of Medicaid under the ACA has been successful.⁷ However, the evidence shows the contrary. Studies show that states expanding their Medicaid programs under ACA have experienced large reductions in uninsured rates that significantly exceed those in non-expansion states.⁸ Further, studies show that Medicaid expansion states experienced reduced disparities in coverage by income, age and race/ethnicity.⁹

Mr. Azar will not commit to supporting mandatory no-cost-sharing contraceptive coverage by insurers. At the Senate HELP Committee hearing on his confirmation, Mr. Azar stated that he believes "we have to balance, of course, a woman's choice of insurance that she would want with the conscience of employers and others."¹⁰ But access to contraception without charge ensures that costs do not prevent access to important preventative care, reducing unintended pregnancies that can lead to adverse maternal and child health outcomes.¹¹ In its 2011 report, "Clinical Preventive Services for Women: Closing the Gaps," the Institute of Medicine found that while contraception and contraceptive counselling were effective at reducing unintended pregnancies, many women lacked insurance that included no-cost-share contraceptive coverage and that cost-sharing requirements can pose barriers to care, particularly for low-income populations.¹² The report therefore recommended requiring insurers to provide coverage without cost-sharing for the full range of FDA-approved contraceptive methods.

We are concerned that an HHS Secretary who has taken these positions may take further actions to undermine these gains in quantity and quality of coverage.

In addition to these out-of-the-mainstream positions taken by Mr. Azar, we are troubled by his track record at the pharmaceutical company Eli Lilly. Actions taken by Lilly USA under Mr. Azar's leadership make us doubt his willingness and ability to serve the needs of U.S. patients and consumers.

The United States spends more per capita on prescription drugs than all other countries, straining federal and state health budgets and patients' ability to pay.¹³ Prescription drug spending is at 17% of personal health spending and rising, projected to surpass half a trillion dollars this year.¹⁴ Nearly a quarter of patients age 55-64 report not filling a prescription or skipping doses because of costs.¹⁵

During Mr. Azar's time at Eli Lilly, the company more than tripled the price of insulin from \$74 to \$269, with much of the increase occurring during Mr. Azar's tenure as President of Lilly USA, Eli Lilly's U.S. affiliate.¹⁶ As a result of Eli Lilly's insulin price hikes, patients report self-rationing treatment by skipping refills, injecting expired insulin, and starving themselves in ineffective attempts to control blood sugar levels.¹⁷ These unhealthy behaviors resulting from Eli Lilly's insulin price spikes can lead to kidney disease and failure, heart disease and heart attacks, infection, amputation, blindness, and death.^{18,19}

Eli Lilly is currently facing multiple class action lawsuits alleging violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act, the Sherman Antitrust Act, the Employee Retirement Income Security Act, and numerous state fraud, unfair trade practices and consumer protection laws with relation to the company raising insulin prices in lockstep with Novo Nordisk and Sanofi.^{20,21,22} Eli Lilly is also facing a suit brought by the United States of America and 31 states alleging False Claims Act violations involving a "multi-tiered kickback scheme" implemented by the company in order to boost Humalog and Humulin insulin sales and investigations by at least five state attorneys general looking relating to insulin pricing.^{23,24,25}

At a time when our country is facing a crisis of access to affordable medicines, we need an untainted and credible advocate for patients and our health care system. A former prescription drug company executive with a history of spiking the prices of lifesaving medicines simply is unqualified to address the needs of our national health care system. This is especially true given the extensive allegations of misconduct that occurred at Eli Lilly under Mr. Azar's leadership. Nominees for our top health position must be held to a higher standard.

We urge you to reject Mr. Azar's nomination for this important post. The health care of all Americans requires a Secretary of HHS who puts the public above profits and who champions evidence-based approaches over ideology.

Sincerely,

[organizational signatories]

¹ Fox Business. "Fmr. HHS Deputy Sec. Azar: ObamaCare is circling the drain" (2017, May 11). Retrieved December 4, 2017, from <https://youtu.be/YqHZd6yB3b0>

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- ² Broaddus, M. (2017, October 10). Share and Number of People Without Health Insurance Fall to Historic Low. *Center for Budget and Policy Priorities*. Retrieved December 4, 2017, from <https://www.cbpp.org/blog/share-and-number-of-people-without-health-insurance-fall-to-historic-low>
- ³ Broaddus, M., & Park, E. (2017, October 10). Affordable Care Act Has Produced Historic Gains in Health Coverage. *Center for Budget and Policy Priorities*. Retrieved December 4, 2017, from <https://www.cbpp.org/research/health/affordable-care-act-has-produced-historic-gains-in-health-coverage>
- ⁴ Zetema Project. "Alex Azar: Should Medicaid be turned into a block grant program?" (2017, February 23). Retrieved December 4, 2017, from <https://youtu.be/ePzgW30qUuc>
- ⁵ The U.S. Senate Committee on Health, Education, Labor & Pensions. Nomination of Alex Azar to serve as Secretary of Health and Human Services. Retrieved December 4, 2017, from <https://www.help.senate.gov/hearings/nomination-of-alex-azar-to-serve-as-secretary-of-health-and-human-services>
- ⁶ Rudowitz, R. (2017, June 21). 5 Key Questions: Medicaid Block Grants & Per Capita Caps. *Kaiser Family Foundation*. Retrieved December 4, 2017, from <https://www.kff.org/medicaid/issue-brief/5-key-questions-medicaid-block-grants-per-capita-caps/>
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- ⁸ Antonisse, L., Garfield, R., Rudowitz, R., & Artiga, S. (2017, September 25). The Effects of Medicaid Expansion under the ACA: Updated Findings from a Literature Review. *Kaiser Family Foundation*. Retrieved December 4, 2017, from <https://www.kff.org/medicaid/issue-brief/the-effects-of-medicaid-expansion-under-the-aca-updated-findings-from-a-literature-review-september-2017/>
- ⁹ Ibid.
- ¹⁰ The U.S. Senate Committee on Health, Education, Labor & Pensions. Nomination of Alex Azar to serve as Secretary of Health and Human Services. Retrieved December 4, 2017, from <https://www.help.senate.gov/hearings/nomination-of-alex-azar-to-serve-as-secretary-of-health-and-human-services>
- ¹¹ Guttmacher Institute. "Unintended Pregnancy in the United States" (2016, September). Retrieved December 4, 2017, from https://www.guttmacher.org/sites/default/files/factsheet/fb-unintended-pregnancy-us_0.pdf.
- ¹² Institute of Medicine. 2011. Clinical Preventive Services for Women: Closing the Gaps. Washington, DC: The National Academies Press. Retrieved December 5, 2017 from <https://www.nap.edu/read/13181/chapter/7#102>
- ¹³ Kesselheim, Aaron S., Avorn, Jerry, Sarpatwari, Ameet. (2016, August 23). The High Cost of Prescription Drugs in the United States, Origins and Prospects for Reform. *JAMA*. Retrieved December 5, 2017, from <http://jamanetwork.com/journals/jama/article-abstract/2545691>
- ¹⁴ U.S. Department of Health and Human Services Office of the Assistant Secretary for Planning and Evaluation. (2016). ASPE Issue Brief: Observations on Trends in Prescription Drug Spending. Retrieved December 5, 2017, from <https://aspe.hhs.gov/system/files/pdf/187586/Drugspending.pdf>
- ¹⁵ Morgan, S. G., & Lee, A. (2017, January 01). Cost-related non-adherence to prescribed medicines among older adults: a cross-sectional analysis of a survey in 11 developed countries. *BMJ Open*. Retrieved December 5, 2017, from <http://bmjopen.bmj.com/content/7/1/e014287>
- ¹⁶ Elliott, J. (2017, November 21). Alex Azar, Trump's HHS Pick, Has Already Been a Disaster for People With Diabetes. *The Nation*. Retrieved December 5, 2017 from <https://www.thenation.com/article/alex-azar-trumps-hhs-pick-has-already-been-a-disaster-for-people-with-diabetes/>
- ¹⁷ Donald Chaires, George Denault, Jane Doe, John Doe, Brittany Gilleland, Gerald Girard, Sara Hasselbach, Lindsey Kinhan, Joseph McLaughlin, Matthew Teachman, and Karyn Wofford v. Sanofi U.S., Novo Nordisk Inc., and Eli Lilly and Company (Class Action Complaint, United States District Court, District of Massachusetts January 30, 2017). Retrieved December 5, 2017 from <https://static01.nyt.com/science/01-30-17-Insulin-Class-Action-Complaint-Hagens-Berman.PDF>
- ¹⁸ Ibid.
- ¹⁹ Wofford, K. (2017, December 4). Pleas from the USA. *T1International*. Retrieved December 5, 2017, from <https://www.t1international.com/blog/2017/12/04/pleas-usa/>

²⁰ Donald Chaires, George Denault, Jane Doe, John Doe, Brittany Gilleland, Gerald Girard, Sara Hasselbach, Lindsey Kinhan, Joseph McLaughlin, Matthew Teachman, and Karyn Wofford v. Sanofi U.S., Novo Nordisk Inc., and Eli Lilly and Company (Class Action Complaint and Demand for Jury Trial, United States District Court, District of Massachusetts January 30, 2017). Retrieved December 5, 2017 from https://static01.nyt.com/science/01-30-17_Insulin_Class_Action_Complaint_Hagens_Berman.PDF

²¹ Frank Barnett, Aletha Bentele, Dianna Gilmore, Mark Goldsmith, Ritch Hoard, and Temayne Sirmons v. Novo Nordisk Inc., Eli Lilly and Company, Sanofi-Aventis U.S., LLC, Express Scripts Holding Company, Express Scripts, Inc., CVS Health Corp., and UnitedHealth Group, Inc., OptumRX, Inc. (Complaint and Demand for Jury Trial, United States District Court, District of New Jersey March 8, 2017). Retrieved December 5, 2017 from <https://assets.documentcloud.org/documents/4116774/Barnett-Et-Al-v-Novo-Nordisk-Eli-Lilly-Sanofi.pdf>

²² Julia Boss, Ruth A. Hart, Ruth Johnson, Leann Rice, and Type 1 Diabetes Defense Foundation v. CVS Health Corporation, Caremark Rx, LLC., Express Scripts Holding Company, Express Scripts, Inc., UnitedHealth Group, Inc., OptumRx, Inc., Sanofi-Aventis U.S., LLC, Novo Nordisk Inc., and Eli Lilly and Company. (Class Action Complaint and Demand for Jury Trial, United States District Court, District of New Jersey March 17, 2017). Retrieved December 5, 2017 from <https://www.documentcloud.org/documents/4116777-Julia-Boss-Type-1-Diabetes-Defense-Foundation.html#document/p1>

²³ Health Choice Alliance, LLC, on behalf of the United States of America; State of Arkansas; State of California; State of Colorado; State of Connecticut; State of Delaware; District of Columbia; State of Florida; State of Georgia; State of Hawaii; State of Illinois; State of Indiana; State of Iowa; State of Louisiana; State of Maryland; Commonwealth of Massachusetts; State of Michigan; State of Minnesota; State of Montana; State of Nevada; State of New Hampshire; State of New Jersey; State of New Mexico; State of New York; State of North Carolina; State of Oklahoma; State of Rhode Island; State of Tennessee; State of Texas; State of Vermont; Commonwealth of Virginia; and State of Washington v. Eli Lilly and Company, Inc.; Healthstar Communications, Inc.; VMS Biomarketing; Covance, Inc.; and United Biosource Corporation (Complaint and Jury Demand, United States District Court for the Eastern District of Texas Texarkana Division June 15, 2017). Retrieved December 5, 2017 from <https://s3.amazonaws.com/assets.fiercemarkets.net/public/005-LifeSciences/llysuit.pdf>

²⁴ Eli Lilly and Company. (July 28, 2017). Quarterly Report Under Section 13 or 15(d) of the Securities Exchange Act of 1934 for the Quarter Ended June 30, 2017. Retrieved December 5, 2017 from <https://investor.lilly.com/secfiling.cfm?filingID=59478-17-183&CIK=59478>

²⁵ Eli Lilly and Company. (May 1, 2017). Quarterly Report Under Section 13 or 15(d) of the Securities Exchange Act of 1934 for the Quarter Ended March 31, 2017. Retrieved December 5, 2017 from <https://investor.lilly.com/secfiling.cfm?filingID=59478-17-183&CIK=59478>