October 29, 2019

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NTU urges all Senators to vote "NO" on S.J. Res. 52, a Congressional Review Act disapproval of the rule submitted by the Secretary of the Treasury and the Secretary of Health and Human Services (HHS) relating to "State Relief and Empowerment Waivers." These waivers give states the flexibility to lower the cost of care for patients and offer tailored solutions for covering their most vulnerable populations. Repealing this guidance is unnecessary and short-sighted.

Under Section 1332 of the Affordable Care Act (ACA), states have the ability to request that the federal government waive certain requirements of the ACA in order to establish rules or programs that maintain the comprehensiveness and affordability of health coverage but are tailored to a state's population or unique needs. Guidance from the Departments of Treasury and HHS in October 2018 sought to give states further flexibility under Section 1332. In July 2019 the Centers for Medicare and Medicaid Services published four waiver concepts that may help states cover more individuals while lowering premium costs. These concepts include 1) state-specific premium assistance (SSPA) that increases the number of young people enrolled in the marketplace, 2) adjusted plan options (APOs) that allow premium subsidies to apply to additional types of insurance, 3) account-based subsidies (ABS) that make coverage more personal and portable, and 4) risk stabilization strategies that afford states breathing room in covering their most high-risk, high-cost patients.

S.J. Res. 52 would jeopardize these innovative concepts and could have a chilling effect on state efforts to seek Section 1332 waivers. Of the five waivers approved in 2019 - in Colorado, Delaware, Montana, North Dakota, and Rhode Island - all are projected to lower premiums in the state between 5.9 and 20 percent, and to increase individual market enrollment or the number of insured persons in the state between 0.9 and 2.9 percent. Importantly, all five 2019 waivers, and many of the waivers issued in prior years under Section 1332, were granted for states to establish reinsurance programs for their highest-cost individuals.

Under Section 1332 and under the October 2018 guidance, states cannot use waivers to remove protections for individuals with pre-existing conditions. Therefore, this resolution would only curtail states' ability to design plans and programs that best meet the needs of their constituents. The Senate should reject S.J. Res. 52, and advance legislation that enhances and increases the insurance options available to individuals and families.

Roll call votes on S.J. Res. 52 will be included in our annual Rating of Congress and a "NO" vote will be considered the pro-taxpayer position.

If you have any questions, please contact NTU Policy and Government Affairs Associate Andrew Lautz at alautz@ntu.org.

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