

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 31, 2026

Mike Tuffin
President and Chief Executive Officer
America's Health Insurance Plans
601 Pennsylvania Avenue, NW
South Building, Suite 500
Washington, DC 20004

Dear Mr. Tuffin:

I write seeking information regarding health insurers' use of premium funds that federal law expressly requires to be reserved for abortion coverage. Recent guidance issued by the Centers for Medicare and Medicaid Services (CMS) fundamentally misreads the Affordable Care Act (ACA) and unlawfully permits insurers to divert these segregated funds for purposes unrelated to abortion care. This policy threatens to deny enrollees access to legally covered abortion services and enables insurers to convert funds dedicated to reproductive health care into profit. I request information on how your members are responding to this guidance and what this might mean for private insurance coverage of abortion care.

For more than a decade, the ACA has strictly prohibited federal subsidies from paying for abortion services. At the same time, Congress deliberately preserved access to abortion coverage in the individual market by allowing states to decide whether Marketplace plans may cover abortion using premium payments collected directly from enrollees.¹ Where abortion coverage is permitted or required, Section 1303 of the ACA imposes an unambiguous obligation on insurers: they must segregate premium payments into two distinct accounts—one for services eligible for federal funding and a second account used exclusively to pay for abortions beyond the Hyde Amendment's narrow exceptions for rape, incest, and life endangerment.²

Federal law further requires insurers to estimate abortion premiums at no less than \$1 per enrollee per month. This amount substantially exceeds the actual cost of providing abortion coverage, inflating premiums for families and leading to the accumulation of large balances in segregated accounts.³ These segregated accounts may also accrue interest, further increasing the

¹ *Deja Vu: the Future of Abortion Coverage in ACA Marketplace Plans*, KFF Health News (Sept. 26, 2025) (online at www.kff.org/womens-health-policy/deja-vu-the-future-of-abortion-coverage-in-aca-marketplace-plans/).

² Section 1303(b)(2)(A) of Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 42 U.S.C. § 18023(b)(2)(A).

³ Alina Salganicoff and Laurie Sobel, *Abortion Coverage in the ACA Marketplace Plans: The Impact of Proposed Rules for Consumers, Insurers and Regulators*, KFF (Dec. 2018) (online at

total amount accumulated. As a result, Marketplace insurers have amassed significant sums that the law requires be used solely for abortion services.⁴ It is deeply troubling that, while families face rising health care costs, insurers may be retaining or repurposing funds that are legally restricted for abortion care—effectively transforming overpayments into revenue.

On December 9, 2025, CMS issued new guidance that abandons the statute’s plain language and more than 10 years of practice.⁵ The new CMS–adopted policy allows insurers to convert Section 1303 segregated abortion funds into earned premium revenue at the close of a plan year, at which point the funds “can be treated the same as any other premium payments.”⁶ This interpretation directly contradicts the law.⁷ Moreover, it does not lower premiums, expand coverage, or improve health outcomes. Instead, it creates a perverse incentive for insurers to over–collect abortion premiums and then pocket the surplus. As abortion access is increasingly restricted nationwide, insurers have a legal and moral obligation to ensure affordable, accessible reproductive health care within their provider networks.

The statute is clear: segregated funds must be “used exclusively” to pay for abortion services for which federal funding is prohibited.⁸ Prior federal guidance reinforces this mandate. In 2023, CMS acknowledged that because the \$1 per enrollee per month premium exceeds the cost of abortion coverage, issuers “may have found that the balances of their segregated accounts have increased over time.”⁹ Guidance from 2017 was even more explicit, stating that when paying a non-Hyde abortion claim, funds must be drawn from the segregated account and “cannot be used for any other purpose.”¹⁰ CMS’s new position disregards this settled

<https://files.kff.org/attachment/Issue-Brief-Abortion-Coverage-in-the-ACA-Marketplace-Plans>); *Deja Vu: the Future of Abortion Coverage in ACA Marketplace Plans*, KFF Health News (Sept. 26, 2025) (online at www.kff.org/womens-health-policy/deja-vu-the-future-of-abortion-coverage-in-aca-marketplace-plans/). See also National Health Law Program, *Section 1303 Segregated Abortion Funds Legal Explainer* (Dec. 12, 2025) (online at <https://healthlaw.org/wp-content/uploads/2025/12/1303-Legal-Explainer-12.15.25.pdf>).

⁴ See *Deja Vu: the Future of Abortion Coverage in ACA Marketplace Plans*, KFF Health News (Sept. 26, 2025) (online at www.kff.org/womens-health-policy/deja-vu-the-future-of-abortion-coverage-in-aca-marketplace-plans/).

⁵ Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Frequently Asked Questions (FAQs) on Usage of Funds I Section 1303 Segregated Accounts by Qualified Health Plan (QHP) Issuers in the Individual Market* (Dec. 9, 2025) (online at www.cms.gov/files/document/2025-faqs-1303-segregated-funds.pdf).

⁶ *Id.*

⁷ See Section 1303(b)(2)(C)(ii)(I) of Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-148.

⁸ Section 1303(b)(2)(C)(ii)(I) of Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-148.

⁹ Department of Health and Human Services, Centers for Medicare & Medicaid Services, *FAQs on Coverage of Abortion for which Public Funding is Prohibited by Qualified Health Plan (QHP) Issuers in the Individual Market* (Mar. 31, 2023) (online at www.cms.gov/files/document/qhp-abortion-faq.pdf).

¹⁰ Memorandum from Director of the Center for Consumer Information and Insurance Oversight Randy Pate, Centers for Medicare & Medicaid Services, *CMS Bulletin Addressing Enforcement of Section 1303 of the Patient Protection and Affordable Care Act* (Oct. 6, 2017) (online at www.cms.gov/cciiio/resources/regulations-and-guidance/downloads/section-1303-bulletin-10-6-2017-final-508.pdf).

interpretation and invites insurers to exploit statutory overpayments to bolster profits rather than reduce costs for enrollees.

Beyond its clear conflict with federal law, this policy is concerning as a matter of principle. In the midst of a reproductive health crisis, funds explicitly set aside to ensure access to abortion care must not be diverted into insurance company revenue streams. At the same time the Trump Administration is stripping Medicaid and ACA coverage from millions of Americans, it is granting insurers yet another avenue to increase revenue. Meanwhile, hospitals across the country face closure due to dramatic health care funding cuts, and the uninsured population is poised to grow dramatically because of sky-high health insurance premium costs.¹¹ Allowing insurers to siphon off funds reserved for abortion care, particularly in this moment, is indefensible. CMS's guidance undermines both the letter and the purpose of the ACA and demands immediate scrutiny.

I request that you provide us with the following information for each of your members with Marketplace plans that cover abortion by April 14, 2026:

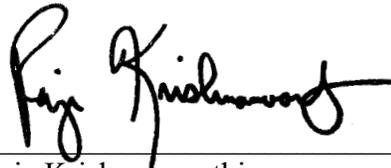
1. Since the issuance of the December 9, 2025, CMS guidance, how many of your members have converted Section 1303 segregated funds that have been segregated for more than one year into revenue, or used the funds for a purpose other than abortion? What purposes have the funds been used for?
2. Prior to the December 9, 2025, CMS guidance, have any of your members ever converted Section 1303 segregated funds into revenue, or used the funds for a purpose other than abortion?
3. What amount of funding has been maintained in the segregated accounts of each relevant member over the last 10 years?
4. Federal law requires that plans that cover non-Hyde abortions charge a minimum of one dollar, per member, per month. In your calculation, what is the actual cost to your members of providing non-Hyde abortion coverage to enrollees?

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. If you have any questions about this request, please contact Committee Democratic staff at (202) 225-5051. Thank you for your prompt attention to this urgent matter.

¹¹ *When the G.O.P. Medicaid Cuts Arrive, These Hospitals Will Be Hit Hardest*, New York Times (Nov. 18, 2025) (online at www.nytimes.com/2025/11/18/upshot/urban-hospitals-medicare-cuts.html); *How Will the One Big Beautiful Bill Act Affect the ACA, Medicaid, and the Uninsured Rate?*, KFF Health News (June 18, 2025) (online at www.kff.org/affordable-care-act/how-will-the-2025-budget-reconciliation-affect-the-aca-medicare-and-the-uninsured-rate/).

Mr. Mike Tuffin
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Sincerely,

A handwritten signature in black ink, appearing to read "Raja Krishnamoorthi", written over a horizontal line.

Raja Krishnamoorthi
Ranking Member
Subcommittee on Health Care and Financial
Services

cc: The Honorable James Comer, Chairman

The Honorable Glenn Grothman, Chairman
Subcommittee on Health Care and Financial Services