

**Congress of the United States**  
**Washington, DC 20515**

October 12, 2011

The Honorable Kathleen Sebelius  
Secretary of Health and Human Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

**Re: CMS-9989-P, Proposed Rule Regarding Establishment of Exchanges and Qualified Health Plans**

Dear Secretary Sebelius:

We appreciate your commitment to protecting and improving women's health and strongly support the Department's efforts to make quality, affordable health insurance available to millions of Americans. We are writing to urge you to consider key changes to the proposed rule that will protect women's health and ensure that consumers can get the health care they need without needless confusion or delay.

Despite our continued concern with the "special rules" in the Affordable Care Act for Exchange-participating health plans that cover abortion, we are nonetheless pleased that the Department has proposed regulations implementing these requirements. As proposed, however, the Department's implementation leaves questions unanswered as to the process for collecting separate premium payments. In its final rulemaking, we encourage the Department to further clarify these processes to alleviate consumer confusion, conform to insurance industry practices, and reduce unnecessary accounting and paperwork, in accordance with Congress's intent.

In particular, we are concerned that the proposed rules implementing Section 1303 could lead to consumer confusion over premium payment processes, resulting in difficulty enrolling in the plans of their choice or even in the inadvertent termination of coverage. Our constituents are familiar with itemized insurance bills that cover separate and distinct policies—for their home, car, and life insurance policies, for example—and paying for these different items with a single transfer of funds. The insurance company then distinguishes which portion of the money paid to them is for which item. To simplify the enrollment process and reduce consumer confusion, we urge the Department to ensure that this common industry practice, to which both our constituents and the insurance industry are accustomed, is followed when implementing this section of the Affordable Care Act.

We are also concerned that, without further clarification, insurance plans may misinterpret the law and apply the rules requiring separate payments to individuals beyond what Congress intended. Though we may disagree with the principle, the purpose of the “special rules” for abortion was to prohibit federal funds from being used to pay for abortion care. Under the Affordable Care Act, individuals who do not receive premium assistance credits will use their own personal funds to pay monthly insurance premiums; no money tied to the federal government will be used at all. Therefore, the separate payment requirements in Section 1303 are inapplicable to individuals who do not receive premium assistance credits because no federal funds are used. To interpret the law otherwise would frustrate the compromise Congress reached in Section 1303. Furthermore, should the rules require all enrollees to make separate payments for abortion care, health plans would face extra administrative burdens and increased costs which would in turn be passed on to consumers. In line with Congressional intent, the final rules implementing Section 1303 should provide that health plans must collect separate payments for abortion care only from individuals who receive premium assistance credits.

Finally, we urge you to protect access to women’s health care in final rules implementing the Essential Community Provider protection in the Affordable Care Act. To ensure that patients have access to the providers in their communities, Congress required under Section 1311(c)(1)(C) of the Affordable Care Act that health plans participating in state-based exchanges must contract with essential community providers, including community health centers, HIV/AIDS clinics, and family planning clinics. We are particularly concerned, in enacting this important protection, that women be able to continue to access health care from family planning clinics. To that end, we urge the Department in its final rule to follow Congressional intent and make sure that final regulations guarantee meaningful access to the essential community providers women rely on, specifically family planning clinics.

Thank you for your consideration of our requests.

Sincerely,



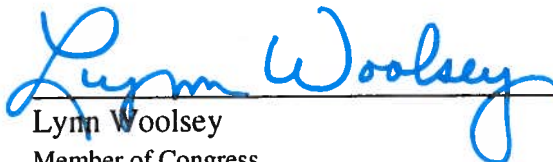
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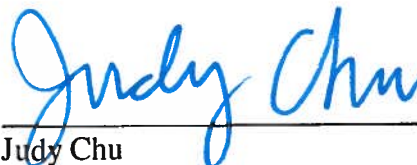
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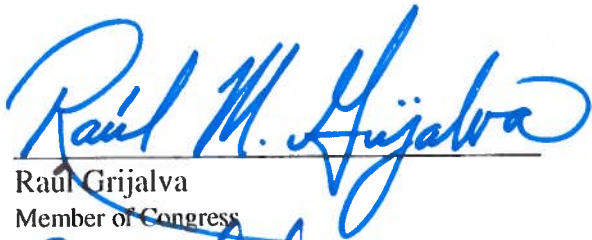
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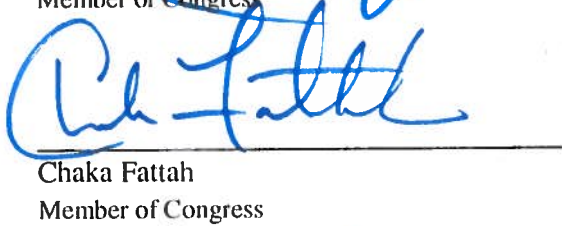
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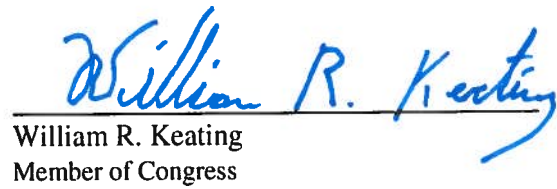
  
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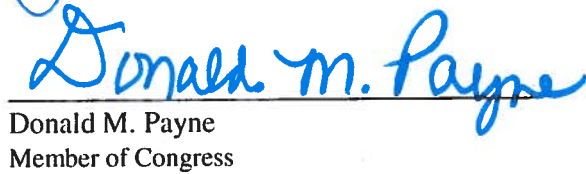
  
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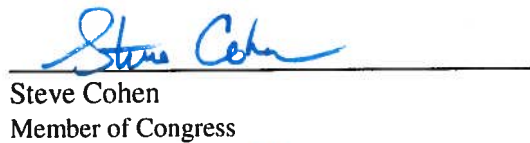
  
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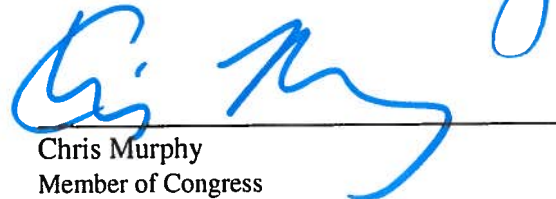
  
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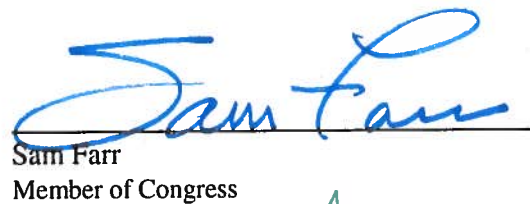
  
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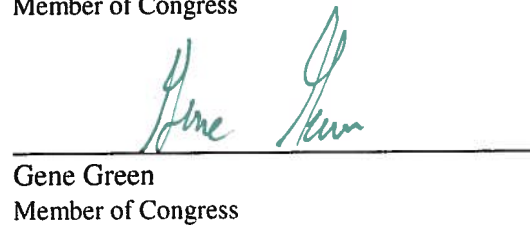
  
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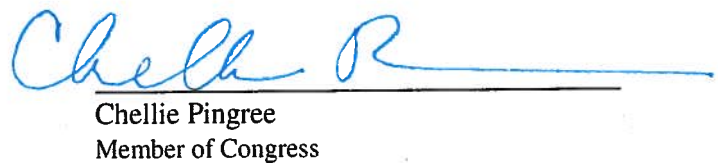
  
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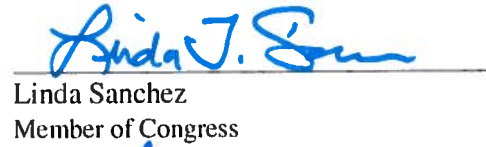
  
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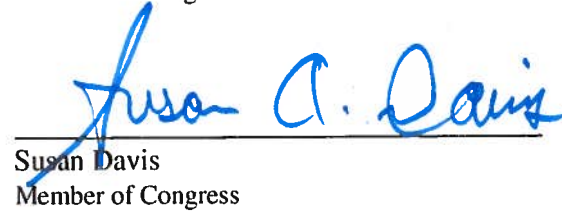
  
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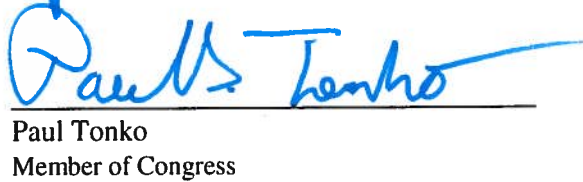
  
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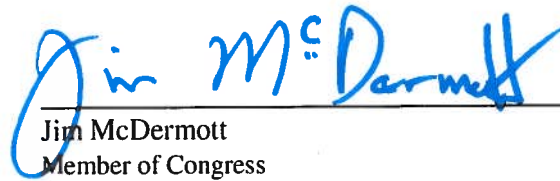
  
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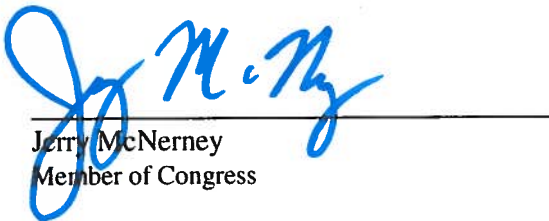
  
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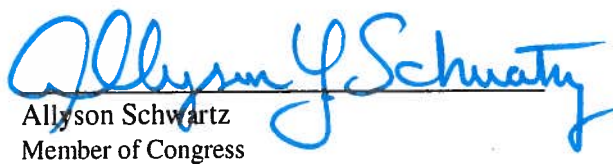
  
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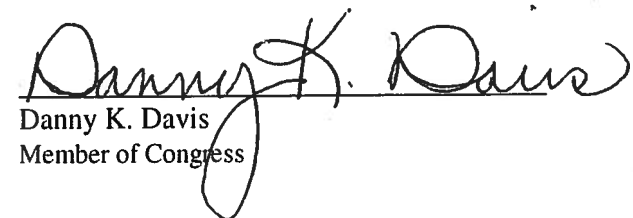
  
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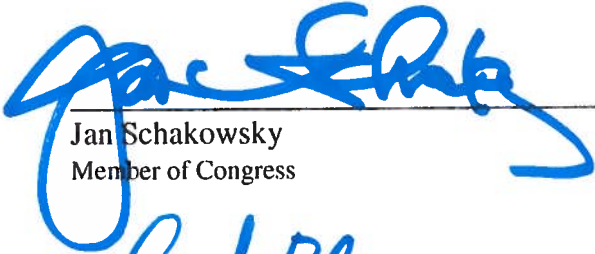
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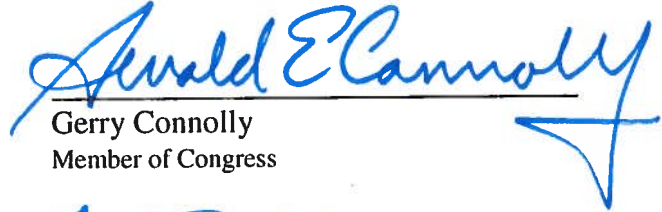
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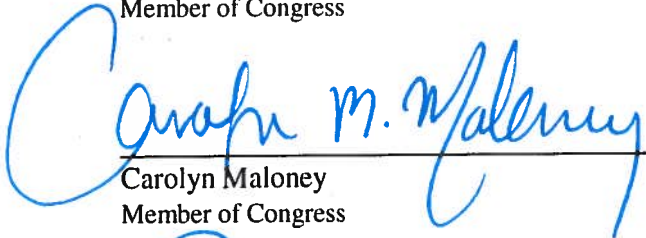
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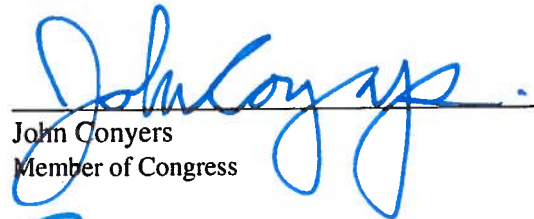
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