OSPIRG
Standing Up To Powerful Interests

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TO: Jean Straight, Acting Director
Oregon Department of Consumer and Business Services (DCBS)

FROM: Jesse Ellis O'Brien, OSPIRG Policy Director

RE: Rate increases proposed due to discontinuation of cost-sharing reduction payments

DATE: October 16, 2017

OSPIRG reluctantly supports DCBS's decision to increase rates for 2018 Silver plans in response to the Trump Administration's planned discontinuation of payments for the Affordable Care Act's cost-sharing reduction (CSR) program. We condemn this reckless and unjustifiable federal policy in no uncertain terms, but it is urgently necessary for Oregon to take action to protect consumers and we believe the approach proposed by DCBS represents the best of a bad set of options.

Additional health insurance rate increases are the last thing Oregon consumers need and it is impossible to celebrate this outcome. But without swift action to ensure appropriate rates in the absence of these payments, the health insurance markets Oregonians rely on for coverage may become dangerously unstable.

Given the brief timeline for public comment on this proposal, we will not be able to consult with an independent actuary to evaluate the soundness of the magnitude of the rate hike proposed. But based on the publicly-available data and independent analyses about the possible impact of CSR nonpayment, 7.1% does not seem unreasonable.

We support the decision to incorporate the necessary rate increase into the Silver plan rates, and to require the same Silver plan rate increase from all health insurers. If the increase varied by carrier based on enrollment in CSR plans, it could create problematic incentives for insurers and potentially destabilize markets further.

Although raising only the Silver plan rates may be disruptive and confusing for some consumers, it will help minimize the impact on consumers eligible for the ACA's premium tax credits. In fact, counterintuitively, by increasing the dollar value of the premium tax credits—which are pegged to the cost of the second-cheapest Silver plan—this decision will actually provide more financial help for some consumers. Raising only the Silver plan rates will also ensure that there are at least some plans available to non-subsidy eligible consumers that are not subject to this rate hike.

At the same time, by making Silver plans artificially more expensive than Bronze plans, it may have the effect of pushing some consumers to switch to Bronze coverage, putting them at risk of higher out-of-pocket costs. DCBS and its community partners will need to redouble outreach and education efforts during the upcoming open enrollment period to ensure that consumers understand all the options available to them in this fast-changing and potentially confusing marketplace.

While we support this decision as a necessary stopgap, especially given the extraordinarily short timeframe afforded by the federal government, it is possible that the CSR payments will still be made. The nonpayment of CSRs is now subject to legal dispute, and remains a subject of debate in Congress. We urge DCBS to begin contingency planning as soon as possible to ensure that consumers benefit appropriately if the federal government does ultimately make good on their obligation.

We also encourage Oregon policymakers to consider whether additional policy action may be necessary in the longer term to preserve the stability of Oregon's health insurance market and protect consumers from the consequences of capricious and destructive federal action. Oregon's reliance on the federal Marketplace technology may be worth revisiting, and it is worth exploring whether there are creative strategies available to provide coverage options for Oregon consumers that could be more resilient to adverse policy change at the federal level.

Thank you for your consideration.

Jesse Ellis O'Brien
OSPIRG Policy Director