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NEWS FOR IMMEDIATE RELEASE

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AG Kaul Joins Lawsuit Challenging Trump Administration Rule That Would Make It Harder for Americans to Obtain Health Coverage Under the ACA

By the Trump Administration's own estimates the rule will cause up to 1.8 million people to lose their health insurance

MADISON, Wis. – Attorney General Josh Kaul joined a multistate coalition in filing a lawsuit challenging an unlawful final rule promulgated by the U.S. Department of Health and Human Services (HHS) and Centers for Medicare & Medicaid Services (CMS) that would create significant barriers to obtaining healthcare coverage under the Affordable Care Act (ACA). The Trump Administration's final rule would make numerous amendments to rules governing federal and state health insurance marketplaces which the administration estimates will cause up to 1.8 million people to lose their health insurance, while causing millions more to pay increased insurance premiums and out-of-pocket costs like copays and deductibles. The final rule also excludes coverage of gender-affirming care as an essential health benefit (EHB) under the ACA. In the lawsuit, the attorneys general argue that the HHS and CMS rule is arbitrary and capricious, contrary to law, and violates the Administrative Procedure Act (APA). The coalition is also seeking preliminary relief, and a stay, to prevent the challenged portions of the final rule from taking effect in the Plaintiff States before the August 25 effective date.

"This rule would make health insurance coverage less accessible," said AG Kaul. "These changes that would undercut the Affordable Care Act should be enjoined."

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Congress enacted the ACA in 2010 to increase the number of Americans with health insurance and decrease the cost of healthcare. Fifteen years later, the Act continues to meet its goals, with annual enrollment on the ACA marketplace doubling over the past five years, resulting in over 24 million people signing up for health insurance coverage in plan year 2025 on the ACA exchanges. Now, with less than four months until open enrollment for plan year 2026 begins, the Trump Administration's final rule would reverse that trend, erecting a series of new barriers to enrollment that would deprive up to 1.8 million people of insurance coverage by the administration's own estimates, and drive up the healthcare costs incurred in Plaintiff States.

In Wisconsin, it is estimated that the final rule will cause total enrollment in Wisconsin's individual marketplace to decrease and will also destabilize the healthy mix needed in the risk pool to hold premiums down, ultimately making healthcare less accessible as premiums become less affordable. Wisconsin has achieved two record-breaking years in a row with the highest enrollment ever on the individual market. With the changes from the final rule in place, those trends are likely to reverse, and our uninsured rate will grow. In 2022, the number of uninsured Wisconsinites was estimated to be 312,000. As hospitals and other facilities like Federally-Qualified Health Centers are required to provide certain types of care to those without an ability to pay, their costs will rise along with the uninsured population increasing on account of the final rule.

The final rule by HHS would make substantial changes to the operation of the ACA marketplaces, including adding new verification requirements, imposing an automatic $5 monthly charge on all automatically reenrolled consumers who qualify for $0 premiums, and making other changes which will make coverage less affordable for millions of individuals nationwide. In the lawsuit the attorneys general also argue that the HHS and CMS rule imposes burdensome and costly paperwork requirements, limits the opportunities to sign up for health coverage, substantially increases cost-sharing limits, and forces exchanges and consumers to spend hundreds of millions of dollars to prove eligibility for coverage and subsidies.

In filing the lawsuit, Attorney General Kaul is joined by the attorneys general of Arizona, California, Colorado, Connecticut, Delaware, Illinois, Maryland, Massachusetts, Maine, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington, as well as Pennsylvania Governor Josh Shapiro.

A copy of the complaint is available here.

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