

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

October 20, 2020

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Secretary Azar:

On October 13, we wrote to you seeking information on the Trump Administration’s reported plans to send \$200 “Trump cards” branded with the President’s name to Medicare beneficiaries ahead of Election Day.<sup>1</sup> As we detailed in our letter, it appears President Trump is attempting to buy votes using \$7.9 billion in taxpayer funds as part of a last-ditch attempt to boost his political standing with seniors. Given the highly unusual nature of the proposed “Trump card” program, we also requested that the U.S. Government Accountability Office conduct an expedited review to assess whether the program, as designed, would comply with all relevant federal laws and regulations.<sup>2</sup> Since our letter, bipartisan experts have continued to cast doubt on the legality of this proposed program.<sup>3</sup> Most recently, press reports appear to confirm our concerns that the Trump Administration is relying on dubious legal authority to justify a blatant political gambit by the President that would be paid for using taxpayer dollars.<sup>4</sup>

According to a recent report, U.S. Department of Health and Human Services (HHS) General Counsel Robert Charrow warned in an internal memorandum that the proposed “Trump card” program could violate federal election law.<sup>5</sup> The report indicates that, among other concerns, Mr. Charrow suggested the contemplated program’s timing and design were legally suspect, and that moving forward with the program would raise concerns about the inappropriate

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<sup>1</sup> Letter from Rep. Richard Neal, Chairman, House Committee on Ways and Means, Rep. Frank Pallone, Jr., Chairman, House Committee on Energy and Commerce, and Sen. Ron Wyden, Ranking Member, Senate Committee on Finance, to Secretary Alex M. Azar II, U.S. Department of Health and Human Services (Oct. 13, 2020).

<sup>2</sup> Letter from Rep. Frank Pallone, Jr., Chairman, House Committee on Energy and Commerce, Rep. Richard Neal, Chairman, House Committee on Ways and Means, and Sen. Ron Wyden, Ranking Member, Senate Committee on Finance, to Comptroller General Gene L. Dodaro, U.S. Government Accountability Office (Oct. 13, 2020).

<sup>3</sup> See, e.g., *President Trump’s Medicare Drug Discount Cards Face Uncertain Path*, Washington Post (Oct. 15, 2020).

<sup>4</sup> *HHS Lawyer: Trump’s Drug Cards Could Violate Election Law*, Politico (Oct. 16, 2020).

<sup>5</sup> *Id.*

use of taxpayer funds days before the presidential election.<sup>6</sup> The HHS Office of the General Counsel (OGC) reportedly instructed Administration officials to seek guidance from the Department of Justice (DOJ) before moving forward with this program, while some officials are reportedly searching for ways to distance themselves from the Administration's plans altogether.<sup>7</sup>

Meanwhile, the Administration's draft letter to seniors announcing the rollout of the proposed "Trump card" program is reportedly being closely guarded by Centers for Medicare & Medicaid Services Administrator Seema Verma, despite requests from officials to review its contents to ensure the letter does not raise additional risks.<sup>8</sup>

These new reports continue to raise serious questions about the legality and propriety of the proposed "Trump card" program. Accordingly, we seek additional information regarding HHS's review of the proposed "Trump card" program. In order to assist in our oversight efforts, please provide a Committee staff briefing by October 27, 2020, and the following no later than October 26, 2020:

1. An unredacted copy of the internal memorandum from OGC regarding the proposed "Trump card" program, as referenced in this letter.
2. A complete description of the guidance that OGC instructed Administration officials to seek from DOJ's Public Integrity Section regarding the proposed "Trump card" program and the current status of any such request.
3. A copy of the current draft letter to seniors announcing the rollout of the "Trump card" program.

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<sup>6</sup> *Id.*

<sup>7</sup> *HHS Lawyer: Trump's Drug Cards Could Violate Election Law*, Politico (Oct. 16, 2020); *President Trump's Medicare Drug Discount Cards Face Uncertain Path*, Washington Post (Oct. 15, 2020).

<sup>8</sup> *HHS Lawyer: Trump's Drug Cards Could Violate Election Law*, Politico (Oct. 16, 2020).

The Honorable Alex M. Azar II

October 20, 2020

Page 3

Should you have questions, please contact the Majority staff of the House Energy and Commerce Committee at (202) 225-2927, the Majority staff of the House Ways and Means Committee at (202) 225-3625, and the Minority staff of the Senate Finance Committee at (202) 224-4515. We appreciate your prompt attention to these matters.

Sincerely,



Frank Pallone, Jr.  
Chairman  
House Committee on Energy and  
Commerce



Richard E. Neal  
Chairman  
House Committee on Ways and  
Means



Ron Wyden  
Ranking Member  
Senate Committee on Finance

CC: Russell T. Vought, Director, Office of Management and Budget, Executive Office of the President of the United States