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ONE HUNDRED SIXTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

March 13, 2019

Mr. Roy T.K. Thung
Chief Executive Office
Independence Holding Company
485 Madison Avenue
New York, NY 1022-5872

Dear Mr. Thung:

We are writing to request information about your company's sale of short-term limited duration health insurance (STLDI). Pursuant to Rules X and XI of the U.S. House of the Representatives, the Committee on Energy and Commerce is conducting oversight of STLDI and companies that sell STLDI plans. The Committee's initial examination of these plans has yielded disturbing information about how insurance companies that sell STLDI discriminate against individuals with pre-existing conditions and put consumers at significant financial risk. Additionally, we are troubled that consumers who sign up for these plans are being misled about the nature of the coverage they are purchasing. Consumers are being denied coverage even for medical care that is rightfully covered under the terms of their contract, through a process known as post claims underwriting. As such, we request further information about the plans your company is offering and about these industry practices.

We are extremely concerned that consumers seeking to enroll in your company's STLDI plans are denied coverage entirely, charged more based on age, gender, or health status, or denied access to basic health care benefits such as prescription drugs, treatment for substance use disorders, and maternity coverage. We are also concerned that consumers who sign up for these plans are often left without comprehensive coverage for expensive health care costs if your company retroactively or prospectively rescinds or denies coverage for care that may stem from what your company deems a pre-existing condition. For example, the *New York Times* has reported on cases where a heart attack victim was left with $900,000 in medical bills after his insurer refused to cover bypass surgery under his STLDI plan, and a stroke victim "was left with $250,000 in unpaid medical bills because the policy did not cover prescription drugs and other

basic treatment."[1] Mr. Sam Bloechl, a patient from Chicago, wrote in testimony to the Committee that he was diagnosed with cancer while enrolled in a STLDI plan.[2] His insurer refused to pay for his cancer treatment, leaving him with $800,000 in medical bills. The insurer deemed Mr. Bloechl's cancer diagnosis a pre-existing condition, even though Mr. Bloechl was diagnosed with cancer after he enrolled in the STLDI plan. Commissioner Jessica Altman of the Pennsylvania Insurance Department testified in front of the Committee of numerous incidents involving consumers enrolled in STLDI plans whose coverage were retroactively rescinded by insurers.[3] One consumer was diagnosed with heart failure while enrolled in a STLDI plan. Commissioner Altman testified that after the consumer filed a claim for medical services, the insurer denied coverage even though the consumer had not been previously diagnosed or treated for his condition.

In addition, there are troubling accounts of consumers who sign up for STLDI plans and are being misled about whether the plans comply with the ACA's comprehensive consumer protection requirements. The *Times* has further reported on cases of fraudulent marketing practices and insurance brokers failing to disclose to consumers what these plans cover.[4] A study by the Georgetown University Health Policy Institute also found that insurers and brokers selling STLDI plans often engage in marketing tactics that can mislead consumers about the nature of the insurance policy they are purchasing, and often fail to provide consumers with detailed plan information such as the medical services and benefits excluded from coverage.[5] The report found that brokers selling STLDI plans over the phone pressure consumers to quickly purchase STLDI plans without providing written information, including information on the benefits covered. Consumers seeking to enroll in plans that provide comprehensive protections are also most often directed to websites and brokers selling STLDI plans. Commissioner Altman

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[1] New York Times, *Without Obamacare Mandate, 'You Open the Floodgates' for Skimpy Health Plans,* (Nov. 30, 2017) (www.nytimes.com/2017/11/30/health/health-insurance-obamacare-mandate.html).

[2] House Committee on Energy and Commerce, Subcommittee on Health, Testimony of Sam Bloechl, *Hearing on Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections,* 116th Cong. (Feb.13, 2019).

[3] House Committee on Energy and Commerce, Subcommittee on Health, Testimony of Jessica Altman, Commissioner, Pennsylvania Insurance Department, *Hearing on Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections,* 116th Cong. (Feb.13, 2019).

[4] *See* note 1.

[5] Georgetown University Health Policy Institute, *The Marketing of Short-Term Health Plans: An Assessment of Industry Practices and State Regulatory Responses,* (Jan. 2019) (www.rwjf.org/en/library/research/2019/01/the-marketing-of-short-term-health-plans.html).

wrote in her testimony to the Committee that STDLI insurers often make it difficult for consumers to access information on the benefits covered in STLDI plans.[6]

In light of these concerns, we request documents and responses to the following questions:

1. Does your company sell any STLDI plans that do not comply with the consumer protections that apply to the individual insurance market under the ACA, including by failing to cover the essential health benefits package, imposing annual and lifetime maximums on benefits, rescinding or denying coverage, or failing to pay medical claims based on pre-existing conditions? Such products could include but are not limited to STLDI sold through out-of-state associations, and "bundled" insurance products that combine two or more STLDI plans. If your plans are sold through out-of-state associations, please also provide a description of these arrangements and disclose a) where these plans are being sold or marketed; and b) where they are filed with a state regulatory authority overseeing the sale of insurance.

    a. Please provide information on the length of duration for these plans, including whether your company offers these plans for a period up to 364 days.

    b. Please provide enrollment data showing how many individuals your company enrolls in SLTDI plans for each state in which you market these plans, including month by month enrollment data for the most recent twelve months. Please also provide enrollment data of individuals in your company's STLDI plans that may occur through out-of-state associations or group arrangements.

    c. What are the average loss ratios and profit margins on your company's STLDI products?

2. Please provide all documents provided to applicants seeking to purchase your company's STLDI plans, including plan applications, all underwriting documents, and health questionnaires that applicants must answer about their health status and medical history. If no such documents exist, please provide any and all documents you provide to applicants seeking to purchase your STLDI plans.

    a. What percentage of applicants are denied coverage for these policies?

    b. What percentage of applicants who are issued coverage are known by the company to have one or more pre-existing medical conditions at the time of issuance?

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[6] *See* note 3.

3. Please provide copies of marketing materials and plan documents for policies offered in each state in which you sell these STLDI plans. If no such documents exist, please provide any and all documents you provide to consumers who purchase your STLDI plans to explain the benefits and coverage they have just purchased, including plan contracts and official offers of coverage.

4. Please provide an explanation of how your company markets STLDI plans to consumers, including information on how much commission your company pays to agents and brokers for STLDI plans.

    a. If your company also sells ACA-compliant plans, please provide information on how the commission to brokers and agents for STLDI plans compares to commission for ACA-compliant plans.

5. Please provide the Committee with all documents that describe your company's policies regarding how STLDI plans are rated, including rating based on health status, gender, age, and any other medical conditions or demographic information. Please provide a breakdown of the percentage of applicants that are rated based on health status, gender, age, and any other medical conditions or demographic information.

6. Please provide a written explanation of whether and how your company conducts post-claims underwriting on STLDI plans, including what constitutes a pre-existing condition under your company's policy. Please provide the Committee with all documents that describe your company's policies regarding post-claims underwriting.

    a. Please provide a breakdown of the percentage of claims denied for STLDI plans, and the percentage of claims denied because of post-claims underwriting over the last 24 months.

    b. Please provide a breakdown of the number of policies rescinded due to post-claims underwriting over the last 24 months, and a written explanation of the criteria used to rescind policies.

7. Have you received complaints from consumers who enrolled in one of your STLDI plans and then discovered it does not offer comprehensive coverage for basic health care services? Or, have insurance regulators in any state notified your company about complaints that consumers have made to them regarding your company's STLDI plans?

    a. Have you received complaints from consumers or from insurance regulators in any state about deceptive advertising?

b. Do you have a mechanism for receiving, tracking, and responding to all consumer complaints?

c. Please provide copies or records of all such complaints, and any documentation of actions you took in response. Please include the nature of the complaints, such as complaints about covered benefits, unpaid medical claims, recessions, and inaccurate marketing.

We appreciate your prompt attention to this matter. If you have any questions, please contact Saha Khaterzai with the Committee staff at (202) 225-2927.

Sincerely,

Frank Pallone, Jr.
Chairman

Anna G. Eshoo
Chairwoman
Subcommittee on Health

Diana DeGette
Chair
Subcommittee on Oversight
and Investigations