

Congress of the United States
Washington, DC 20515

October 27, 2021

The Honorable Samuel Levine
Acting Chairman
Federal Trade Commission Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Washington, DC 20580

Chairman Levine,

We write to you today with great concern about the proliferation of Health Care Sharing Ministries (HCSMs), a form of health coverage in which members - who are typically recruited because they share religious beliefs - contribute monthly payments to cover the qualified expenses of other members. HCSMs are jeopardizing the health and well-being of a reported 1.5 million Americans through deceptive marketing practices and their systemic failure to provide necessary products and services for the consumers to whom they offer “coverage.”¹

Although they are not legally defined as insurance products, HCSMs are the primary and often singular source of health coverage for their members. Despite this, HCSMs are not legally required to provide the same benefits to consumers as certified insurance products. The discrepancies between HCSMs and regulated insurance are varied and consequential: unlike traditional health coverage, HCSMs do not have to provide the essential health benefits of the ACA like maternal health care, prescription drugs, mental and behavioral health, and preventive and wellness services, including vaccinations.² HCSMs also are not required to cover pre-existing health conditions, can charge higher premiums for members based on their health status, place lifetime caps on member benefits, and do not guarantee the payment of medical claims.³

HCSMs deceptively market their coverage as comprehensive and equivalent to ACA-compliant products sold on federal and state health care exchanges. Some health shares even use naming-devices to describe their health plans that are similar to the metal tiers on the ACA exchanges – gold, silver, and bronze. In advertisements, HCSM organizations rely on Christianity to market their products, describing belonging to a health share as “affordable,” “biblical,” and “faithful” without highlighting that they are not, in fact, insurance at all. The FTC defines deceptive acts or practices as “involving a material representation, omission or practice that is likely to mislead a consumer acting reasonably in the circumstances.”⁴ It is highly likely HCSMs’ marketing practices meet this definition.

A recent Government Accountability Office report notes that health insurance brokers also refer prospective customers to non-compliant health coverage options like HCSMs, often without

¹ <http://ahcsm.org/about-us/data-and-statistics/>

² JoAnn Volk, Emily Curran, and Justin Giovannelli, Health Care Sharing Ministries: What Are the Risks to Consumers and Insurance Markets? (Commonwealth Fund, Aug. 2018).

³ Ibid.

⁴ FTC Policy Statement on Deception- October 14, 1983

https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf

explaining the difference in coverage.⁵ Some HCSMs do proactively disclose that they are not insurance during the enrollment process, by which point consumers may have missed the open enrollment period for insurance coverage through their employer or the ACA exchanges.

In the absence of decisive federal action, states have taken some steps to protect their consumers. The State of New York filed suit against one HCSM accusing it of illegally selling insurance while evading regulation. The state wrote:

*[HCSM] aggressively marketed and sold their products to consumers in the health insurance marketplace, preying on people who were uninsured, and deceiving consumers into paying hundreds of dollars per month for what they were led to believe was comprehensive health coverage...[HCSM] utilized this structure to justify routine denials of consumers' medical claims.*⁶

Other states have also taken action against HCSMs – California has both issued cease and desist orders to HCSMs and issued consumer alerts warning not to join an HCSM. Maryland, Colorado, and Connecticut have also either issued warnings or taken regulatory action against HCSMs operating within their borders. Although these state efforts individually help some consumers, they are miniscule in comparison to the total membership of HCSMs – a large population that continues to grow.

It is unconscionable that consumers may be tricked into purchasing inadequate health coverage during a global pandemic, especially when ACA exchange insurance is at its most affordable ever as a result of the American Rescue Plan which reduced premiums on average \$85 per month.⁷ After applying tax credits, 80% of consumers can purchase coverage with all of the benefits and consumer protections of the ACA for \$10/month or less.⁸

The patchwork of state laws, regulations, and enforcement actions are insufficient to address the challenge of HCSMs, especially given that a majority of states exempt HCSMs from all insurance regulations.⁹ Considering the dangers of HCSMs, and their marketing practices that provide a false sense of security to their members, it is critical that FTC take immediate action to protect consumers. We look forward to your responses to our below questions.

1. What actions can FTC take to protect consumers from enrolling in health coverage that does not cover medically necessary tests and services?
2. What actions has FTC previously taken to investigate, prosecute, cite, fine, or otherwise address the behavior of HCSMs? Has the FTC previously determined if the business practices of HCSMs constitute consumer fraud?

⁵ Private Health Coverage: Results of Covert Testing for Selected Sales Representatives Listed on Healthcare.gov <https://www.gao.gov/assets/gao-21-568r.pdf> Accessed October 5, 2021

⁶ Abelson, Reed. “N.Y. Accuses Christian Group of Misleading Consumers on Health Coverage” New York Times, October 20, 2020.

⁷ [American Rescue Plan HHS Fact Sheet](#)

⁸ Ibid.

⁹ JoAnn Volk, Emily Curran, and Justin Giovannelli, Health Care Sharing Ministries: What Are the Risks to Consumers and Insurance Markets? (Commonwealth Fund, Aug. 2018).

3. What enforcement actions has FTC previously taken against deceptive marketing in health care coverage and how do those cases apply to marketing done by HCSMs?
4. How many complaints has FTC received to date regarding the marketing or business practices of Health Care Sharing Ministries? What are the general contents of those complaints?
5. What steps can FTC take to ensure that HCSMs must publicly display their terms and conditions so that consumers understand the extent of their coverage? Will this include a clearly written explanation of benefits, as certified insurance products must provide?

Thank you for your attention to this matter. Please contact Anthony Montoya with Congressman Jared Huffman with any inquiries at anthony.montoya@mail.house.gov.

Sincerely,



Jared Huffman
Member of Congress



Jamie Raskin
Member of Congress



Mark Pocan
Member of Congress



Eleanor Holmes Norton
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