EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 28, 2019
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S.J. Res. 52 – Disapproving the rule submitted by the Secretary of the Treasury and the Secretary of Health and Human Services relating to ''State Relief and Empowerment Waivers''

(Sen. Warner, D-VA, and 46 cosponsors)

The Administration strongly opposes S.J. Res. 52. This resolution would undermine the Administration's progress in expanding affordable insurance options for American families, including those harmed by the failing insurance markets created by Obamacare.

Obamacare has limited choice, forced Americans into unaffordable plans, and provided narrow networks, which prevent patients from accessing the doctors and hospitals they need. In 2019, approximately 17 percent of enrollees in the Obamacare exchanges were served by only one insurer, while another 25 percent had access to just two insurers. The percentage of Obamacare plans with narrow networks increased from 54 percent in 2015 to 72 percent in 2019, while the average Obamacare family monthly premium has increased by $742 — more than an average family's monthly budget for groceries.

In October 2017, President Donald J. Trump signed an executive order directing the Federal Government to exercise all available authority and discretion to provide greater flexibility to and cooperate with States in implementing healthcare programs. In accordance with this order, the Department of Health and Human Services and the Department of the Treasury replaced the last administration's guidance regarding Section 1332 waivers, freeing States to deliver better healthcare options to the American people. The last administration's guidance harmed Americans by requiring States to meet very exacting and burdensome requirements in order to receive a waiver from the Obamacare requirements.

By contrast, the Trump Administration's guidance empowers States with flexibility to work around some of Obamacare's most glaring failures and to give Americans more options to get health coverage that better meets their needs. States now have the opportunity to adopt innovative strategies for providing their residents with affordable health insurance options, including effective means of addressing the needs of people with higher than expected healthcare costs. Under this guidance, the Administration is taking steps to support States' efforts to stabilize their markets.

To date, 13 States have capitalized on the Section 1332 waiver opportunities. In their first year, these waivers have reduced statewide average individual market premiums that range from a

6 percent reduction in Rhode Island to a 30 percent reduction in Maryland. The flexibilities articulated in the new guidance support States' efforts to increase choices for Americans facing escalating premiums, including by allowing States to offer innovative health coverage options that are not currently offered in the individual insurance market.

The President has been clear in his commitment to protecting Americans with preexisting conditions. The new guidance in no way alters this commitment. It does not amend the protections in place for people with preexisting conditions, and does not allow the Administration to waive those requirements. States can, however, use Section 1332 waivers to improve upon the status quo and provide necessary support for people with preexisting and chronic conditions. In addition, Section 1332 does not permit States to waive requirements of the Public Health Service Act such as guaranteed availability and renewability of health insurance, the prohibition on using health status to vary premiums, and the prohibition on preexisting conditions exclusions.

By invalidating the Administration's guidance on Section 1332 waivers, S.J. Res. 52 would stymie States that are striving to provide affordable healthcare options for American families struggling to cope with rising health insurance premiums caused by Obamacare.

<u>If S.J. Res. 52 were presented to the President, his advisors would recommend that he veto it</u>.