

August 11, 2020

**ATTORNEY GENERAL RAOUL OPPOSES PROPOSED RULE THAT WOULD UNDERMINE THE
AFFORDABLE CARE ACT**

Rule Will Lead to Increased Confusion and Health Care Costs

Chicago — Attorney General Kwame Raoul today joined a coalition of 19 attorneys general in [submitting a comment letter](#) opposing a rule proposed by the Department of the Treasury and the Internal Revenue Service (IRS) that seeks to treat payments made to health care sharing ministries (HSMs) as deductible medical expenses under Section 213(d) of the Internal Revenue Code. The change expands non-Affordable Care Act (ACA) compliant health care coverage in the market.

The letter argues that allowing tax deductions for payments made to HSMs undermines the ACA and leaves consumers with less comprehensive coverage. The rule also will lead to consumer confusion as more non-ACA compliant options enter the market, and increased health care costs as healthier people leave the market.

“Permitting payments to HSMs as deductible medical expenses will trick people into believing they are receiving a good deal when in reality, consumers are paying for insurance that may not cover some essential services,” Raoul said. “In the midst of the coronavirus pandemic, consumers cannot afford to wade through confusing health care options as the federal government continues seeking to undermine the Affordable Care Act.”

Prior to the passage of the ACA, HSMs allowed people to pool their money with others who shared their religious beliefs in order to assist each other in times of medical crisis. When the ACA was passed, millions of uninsured Americans were insured and gained access to quality, affordable health insurance. However, many companies began to capitalize on the exemption of HSMs from many of the coverage mandates in the ACA by marketing them as a less expensive alternative to ACA-compliant health insurance. Unlike ACA-compliant health insurance, HSMs do not guarantee payment for covered services and fail to cover essential health benefits, like birth control, prescriptions, preexisting conditions and mental health care.

In their letter, Raoul and the attorneys general argue the proposed rule will:

- **Further increase consumer confusion and fraud in the health care marketplace.** HSMs are not mandated by the ACA to provide the 10 essential health benefits required of health plans sold in the individual market, including coverage for preventive care, services for mental health and substance use disorders, and reproductive care. The letter explains that many HSMs have chosen to capitalize on this by mirroring the structure of ACA-compliant insurance plans in order to market themselves as a less expensive health care option, while not actually providing full coverage to their members. By treating expenses for HSMs as deductible medical expenses, HSMs will further resemble traditional health insurance companies while continuing to dodge the requirement to provide their consumers with essential health benefits.
- **Worsen market segmentation.** If companies are able to use the proposed rule to boost confusing marketing tactics that paint HSMs as quality health insurance options, market segmentation will occur as younger, healthier people choose them over ACA-compliant coverage. The letter argues that this will increase the cost of premiums for older and less healthy Americans who must remain in ACA-compliant health plans in order to receive full health coverage.

The letter also argues that the proposed rule exceeds statutory authority for rulemaking and is an example of capricious rulemaking, as it does not take into account the consumer confusion, fraud and risk of market segmentation the rule could cause.

Joining Raoul in sending the letter are the attorneys general of California, Colorado, Connecticut, Delaware, Hawaii, Iowa, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, Vermont and Virginia.