

1 OPEN EXECUTIVE SESSION TO CONSIDER FAVORABLY REPORTING
2 THE NOMINATION OF SEEMA VERMA, OF INDIANA, TO BE
3 ADMINISTRATOR OF THE CENTERS FOR MEDICARE AND MEDICAID
4 SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES
5 WEDNESSDAY, MARCH 1, 2017
6 U.S. Senate,
7 Committee on Finance,
8 Washington, DC.

9 The meeting was convened, pursuant to notice, at
10 10:30 a.m., in room 215, Dirksen Senate Office Building,
11 Hon. Orrin G. Hatch (chairman of the committee)
12 presiding.

13 Present: Senators Grassley, Crapo, Roberts, Burr,
14 Portman, Toomey, Heller, Cassidy, Wyden, Stabenow,
15 Cantwell, Menendez, Cardin, Brown, Bennet, Casey, and
16 Warner.

17 Also present: Republican Staff: Kimberly Brandt,
18 Chief Health-care Investigative Counsel; Chris Campbell,
19 Staff Director; and Mark Prater, Deputy Staff Director
20 and Chief Tax Counsel. Democratic Staff: David Berick,
21 Chief Investigator; Michael Evans, General Counsel;
22 Elizabeth Jurinka, Chief Health Advisor; Ian Nicholson,
23 Investigator; Joshua Sheinkman, Staff Director; and Beth
24 Vrable, Senior Health Counsel.

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1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. I want to welcome everyone to this
5 morning's markup. Today the committee will consider and
6 hopefully report the nomination of Seema Verma to be the
7 administrator of the Centers for Medicare and Medicaid
8 Services.

9 Now, I am going to be brief in my comments today so
10 that we can move more quickly toward a vote. Regarding
11 Ms. Verma, I think she is a highly qualified nominee. I
12 really do not think there is anyone who recently doubts
13 that.

14 She has vast experience working with state
15 governments to improve and modernize their Medicaid
16 systems, and she has the knowledge and temperament
17 necessary to lead this important agency at this very
18 critical time.

19 It bears repeating that CMS currently processes over
20 a billion health care claims a year. It is the world's
21 largest health insurer and has a budget of over a
22 trillion dollars a year. Long story short, if we are
23 going to make the needed changes to fix our health care
24 system, we need competent and willing partners at CMS who
25 will work with Congress to find the best solutions and

1 then effectively supplement those solutions.

2 Moreover, if we are ever going to tackle our growing
3 entitlement crisis and preserve our federal health
4 programs as well as Social Security for future
5 generations, we need to take a hard look at the system
6 now and find common ground on improvements that will
7 extend the life of these important programs.

8 Therefore, we need leadership at CMS that will both
9 recognize the problems these programs face and understand
10 the importance of the programs to the population they
11 serve.

12 I believe Ms. Verma will be that kind of a leader at
13 CMS, and I think there is bipartisan agreement on that
14 particular point.

15 During Ms. Verma's hearing, I remarked on the recent
16 conflicts and contention we had had to deal with on the
17 committee. I have been very pleased to see that for the
18 most part we have been able to overcome that with regard
19 to this nomination.

20 I want to commend my colleagues for what has
21 generally been a smooth process for this nomination. I
22 am hoping to see at least a few of my Democratic
23 colleagues vote in favor of Ms. Verma today. Looking
24 forward, I hope that this good will can continue into the
25 future as we have many more nominations to consider in

1 the coming months.

2 In conclusion, I just want to reiterate my support
3 for this nomination and urge all my colleagues on the
4 committee to vote in favor of reporting the nomination
5 today.

6 With that, I am going to turn it over to Ranking
7 Member Wyden for his opening statement.

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1 OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM
2 OREGON.

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4 Senator Wyden. Thank you very much, Mr. Chairman.

5 Two weeks ago when Ms. Verma was before the Finance
6 Committee, Finance Democrats said that they would need
7 better answers than those she provided at the hearing.

8 And it is my view, and I want to emphasize this, Mr.
9 Chairman, because I suspect we are going to come back to
10 this topic, we have not been asking "gotcha" questions.

11 For example, I asked questions that go to the core
12 of what it means to be CMS administrator. I asked, how
13 would you use your authority to help doctors in Medicare,
14 especially in rural communities? That is about as open-
15 ended as you can get and goes right to the heart of what
16 this job is about.

17 I asked for one example of how the agency could
18 lower the high cost of prescription drugs. Again, plenty
19 of ideas on the table. I said, how about one?

20 I asked, could a state Medicaid program be designed
21 to lock someone out of the program for six months if they
22 miss a payment, even if they are making as little as
23 \$12,000?

24 Now, the answers to the written questions were
25 actually worse than what we heard at the committee

1 hearing. And what we got was what I am starting to call
2 "health care happy talk" because there is just no content
3 there. That is deeply troubling for me when you are
4 talking about a job that is responsible for a trillion
5 dollars of health care spending.

6 Ms. Verma, for example, and this is important to us,
7 does not have a lot of background dealing with Medicare.

8 The fact that this committee barely has any notion of
9 her views on prescription drug costs or new payment
10 models for physicians and how they would affect rural
11 communities, in my view, makes it very hard for us to
12 carry out our obligation to advise and consent.

13 Without any indication of what her own views are,
14 what I am left to conclude is that Ms. Verma basically
15 shares the view of many in her party, including her new
16 boss, if she is confirmed, Secretary Tom Price.

17 Their proposals say that Medicare's guarantee of
18 defined benefits ought to be ended, that Medicaid should
19 be cut to the bone and that insurance companies should be
20 put in charge and allowed these loopholes and once again
21 be back in the business of discriminating against those
22 with a preexisting condition.

23 Now, I am going to wrap up shortly, and I would just
24 like to close by touching on some of Ms. Verma's
25 unresolved potential conflict of interest issues.

1 As was discussed in her hearing, she contracted
2 directly with the state of Indiana while also contracting
3 with at least five companies that provide hundreds of
4 millions of dollars in services and products to the
5 programs she helped the state manage: Hewlett-Packard,
6 Health Management Associates, Milliman, Maximus and Roche
7 Diagnostics.

8 In at least two cases, her contracts with HP and
9 HMA, her answers show that her assignments for Indiana
10 directly aligned with the work those outside firms were
11 actually getting paid to do.

12 Now, she stated she recused herself whenever
13 potential conflicts arose and that with her dual roles,
14 it was common knowledge among state staff.

15 In my written questions, I asked for documentation
16 she had of the process she followed when she recused
17 herself, of any documentation of the actual recusals.
18 She said there was none.

19 I understand that Ms. Verma received an opinion from
20 the Indiana Ethics Commission that her work with HP was
21 not in violation of the state conflict of interest laws.

22 But that was because she was always a paid consultant to
23 the state and never an actual state employee. She was
24 able to skirt Indiana's relaxed conflict of interest
25 rules and the state was just happy to go along.

1 In my view, that is not absolving somebody from
2 potential conflicts of interest. This is particularly
3 true considering Ms. Verma was senior adviser to both
4 Governor Daniels and Governor Pence, oversaw Indiana's
5 ACA implementation and Medicaid reform and even
6 maintained an office in the state government building.

7 So let me again quote former President George W.
8 Bush's ethics lawyer. This is not a liberal; this is not
9 somebody from some kind of progressive interest group.
10 George W. Bush's ethics lawyer said that Ms. Verma's
11 consulting arrangement in Indiana, and I quote here,
12 "clearly should not happen and is definitely improper."

13 And my view is the reason independent ethics experts
14 are concluding this is, she was on both sides of the
15 deal, helping manage the state's health program while
16 also being paid by vendors to those same programs.

17 Richard Painter, George W. Bush's ethics lawyer,
18 said it was a conflict of interest. I agree.

19 I am concerned if Ms. Verma is confirmed to lead the
20 agency, for many of the companies she worked for and
21 major vendors, there will not be adequate scrutiny of her
22 past relationships with them, just as there was not in
23 Indiana.

24 Colleagues, I do not expect to see eye-to-eye with
25 every nominee in the Trump administration. We are going

1 to have votes on additional Trump nominees, so I do not
2 expect to see eye-to-eye with each of them. But I think
3 as a bipartisan concern, and I want to register this this
4 morning: Democrats and Republicans on this committee
5 deserve good-faith answers to questions because we are
6 the committee of jurisdiction, and this agency controls a
7 trillion dollars.

8 And I think, and I say this to my colleagues because
9 I know we are getting ready to vote, I think we are
10 basically in the dark with respect to any sense of how
11 Ms. Verma would pursue these issues. You need that kind
12 of information to make judgments about whether nominees
13 who come before the committee -- and who are going to be
14 in charge of a trillion dollars' worth of health care
15 spending -- ought to have that kind of information.

16 And I am going to oppose this nomination.

17 Thank you, Mr. Chairman.

18 The Chairman. Well, thank you.

19 We do not have a quorum. Should we try and get
20 together after the votes or during the vote?

21 How many do we have?

22 Senator Grassley. If you have a quorum, you ought
23 to vote.

24 The Chairman. I do not think we have a quorum.

25 Has the vote started?

1 Senator Grassley. Yes, at 10:33.

2 Senator Wyden. We are prepared to do it off the
3 floor.

4 The Chairman. All right. Well, then we will get
5 together off the floor.

6 [Simultaneous speech.]

7 The Chairman. Okay, well, if we can get everybody
8 here, that will help.

9 Senator Wyden. Mr. Chairman? Mr. Chairman? I have
10 a request from Senator Cantwell to speak on the nominee.

11 The Chairman. Senator Cantwell.

12 Senator Cantwell. Mr. Chairman, if we are waiting
13 for members to show up, I want to make sure I express my
14 opinion about this nomination.

15 I have great concerns that many people in the Trump
16 administration and the House of Representatives are
17 trying to move towards either a block-granting Medicaid
18 or capitulating Medicaid. And while we asked the nominee
19 whether she thought those ideas we sound in making sure
20 that the burden was not shifted to individual states or
21 counties, because we have certainly heard from a lot of
22 people that they do not have the capacity to take care of
23 that population, I did not get a commitment that those
24 things would be opposed by her or the administration.

25 President Trump gave his nominees full capacity to

1 say whatever they wanted through the nomination process.

2 And what we are going to be very concerned about is any
3 nominee who is going to aid this administration in
4 capping Medicaid in a way that cuts individuals off of
5 care.

6 We need to innovate. We need to rebalance towards
7 community-based care. We need to make sure that we are
8 innovating in the system to save costs. But capitating
9 Medicaid and pushing people off the system, people who
10 need to get a balance delivery of care, whether it is the
11 opioid problem and making sure that they have Medicaid to
12 support them in getting off of opioids, or whether it is
13 a more fundamental and strategic way to take care of a
14 growing Medicaid population where long-term care expenses
15 are, we need to innovate, not capitate.

16 So I oppose this nomination and I hope my colleagues
17 here will pay very close attention to the attempts by
18 people to think that flexibility is the answer, when in
19 reality they are talking about a budget mechanism and a
20 budget mechanism only to cut the amount of funds the
21 federal partnership owes and is obligated to as it
22 relates to the states.

23 Do not shift the burden to the states.

24 Senator Casey. Mr. Chairman?

25 The Chairman. Who is this?

1 Senator Casey. Mr. Chairman?

2 The Chairman. Yes, the Senator from Pennsylvania.

3 Senator Casey. I hereby incorporate that I
4 reference everything the Senator from Washington just
5 said. And I am in total agreement.

6 The Chairman. All right, without objection.
7 Now, I do not think we quite have enough here.

8 Senator Grassley. One more.

9 Senator Crapo. Mr. Chairman, I am here.

10 The Chairman. Senator who?

11 Well, we are going to go ahead and vote because it
12 is going to be hard to get everybody together.

13 Let us put the statements in the record.

14 [Simultaneous speech.]

15 The Chairman. Do you want to vote or do you not?

16 [Simultaneous speech.]

17 The Chairman. Look, we do not have enough here.
18 Let us vote off the floor. We have this one vote at
19 10:30 and we will vote off the floor.

20 [Simultaneous speech.]

21 The Chairman. Do we have one here?

22 Senator Grassley. We have, all right.

23 The Chairman. Well, if we have enough here, let us
24 vote, let us get it done.

25 Senator Grassley. Yes.

1 The Chairman. We have enough?
2 Senator Grassley. Yes.
3 The Chairman. All right, the clerk will call the
4 roll.
5 The Clerk. Mr. Grassley?
6 Senator Grassley. Aye.
7 The Clerk. Mr. Grassley aye.
8 Mr. Crapo?
9 Senator Crapo. Aye.
10 The Clerk. Mr. Crapo aye.
11 Mr. Roberts?
12 Senator Roberts. Aye.
13 The Clerk. Mr. Roberts aye.
14 Mr. Enzi?
15 The Chairman. Aye by proxy.
16 The Clerk. Mr. Enzi aye by proxy.
17 Mr. Cornyn?
18 The Chairman. Aye by proxy.
19 The Clerk. Mr. Cornyn aye by proxy.
20 Mr. Thune?
21 The Chairman. Aye by proxy.
22 The Clerk. Mr. Thune aye by proxy.
23 Mr. Burr?
24 Senator Burr. Aye.
25 The Clerk. Mr. Burr aye.

1 Mr. Isakson?
2 The Chairman. Aye by proxy.
3 The Clerk. Mr. Isakson aye by proxy.
4 Mr. Portman?
5 Senator Portman. Aye.
6 The Clerk. Mr. Portman aye.
7 Mr. Toomey?
8 Senator Toomey. Aye.
9 The Clerk. Mr. Toomey aye.
10 Mr. Heller?
11 Senator Heller. Aye.
12 The Clerk. Mr. Heller aye.
13 Mr. Scott?
14 The Chairman. Is Mr. Scott here?
15 Aye by proxy.
16 The Clerk. Mr. Scott aye by proxy.
17 Mr. Cassidy?
18 Senator Cassidy. Aye.
19 The Clerk. Mr. Cassidy aye.
20 Mr. Wyden?
21 Senator Wyden. No.
22 The Clerk. Mr. Wyden no.
23 Ms. Stabenow?
24 Senator Stabenow. No.
25 The Clerk. Ms. Stabenow no.

1 Ms. Cantwell?
2 Senator Cantwell. No.
3 The Clerk. Ms. Cantwell no.
4 Mr. Nelson?
5 Senator Wyden. No by proxy.
6 The Clerk. Mr. Nelson no by proxy.
7 Mr. Menendez?
8 Senator Menendez. No.
9 The Clerk. Mr. Menendez no.
10 Mr. Carper?
11 Senator Wyden. Aye by proxy.
12 The Clerk. Mr. Carper aye by proxy.
13 Mr. Cardin?
14 Senator Cardin. No.
15 The Clerk. Mr. Cardin no.
16 Mr. Brown?
17 Senator Brown. No.
18 The Clerk. Mr. Brown no.
19 Mr. Bennet?
20 Senator Bennet. No.
21 The Clerk. Mr. Bennet no.
22 Mr. Casey?
23 Senator Casey. No.
24 The Clerk. Mr. Casey no.
25 Mr. Warner?

1 Senator Warner. No.

2 The Clerk. Mr. Warner no.

3 Mrs. McCaskill?

4 Senator Wyden. No instruction.

5 The Clerk. Mr. Chairman?

6 The Chairman. Aye.

7 The Clerk. Chairman votes aye.

8 The Chairman. The clerk will report the vote.

9 Senator Wyden. Mr. Chairman, if we could, Senator
10 McCaskill is a no by proxy.

11 The Clerk. Mrs. McCaskill no by proxy.

12 The Chairman. The clerk will cite the vote.

13 The Clerk. Mr. Chairman, the tally of the members
14 present is nine ayes and nine nays. The final tally,
15 including proxies, is 15 ayes and 11 nays.

16 The Chairman. We will keep the vote open and we
17 will all meet off the floor and hopefully we can get the
18 majority to resolve this. So we will ----

19 Senator Wyden. Mr. Chairman?

20 The Chairman. Yes, Senator?

21 Senator Wyden. I was under the impression that
22 proxies do not count.

23 The Chairman. Well, they do not.

24 Senator Wyden. So we are not declaring this the
25 final vote.

1 The Chairman. No, this is not the final vote.

2 Senator Wyden. Great, thank you.

3 The Chairman. We will have the vote over on the
4 floor.

5 Senator Wyden. Great, thank you.

6 The Chairman. I hope everybody will be there, and
7 let us get this done.

8 [Whereupon, at 10:45 a.m., the meeting was
9 concluded.]

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I N D E X

PAGE

STATEMENT OF:

THE HONORABLE ORRIN G. HATCH
A United States Senator
from the State of Utah

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THE HONORABLE RON WYDEN
A United States Senator
from the State of Oregon

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