

United States Senate

WASHINGTON, DC 20510

January 30, 2018

Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, D.C. 20548

Dear Mr. Dodaro,

We are writing to request that the U.S. Government Accountability Office (GAO) conduct a review of the actions that the Trump Administration has taken to “reduce the number of deaths and minimize the devastation the drug demand and opioid crisis inflicts upon American communities” since the October 26, 2017 declaration that the opioid crisis is a public health emergency.¹

Section 319 of the Public Health Service Act allows the Secretary of Health and Human Services (Secretary) to declare that “a disease or disorder presents a public health emergency” or that “a public health emergency, including significant outbreaks of infectious diseases or bioterrorist attacks, otherwise exists.”² The declaration of a public health emergency is designed to facilitate the provision of supplemental resources to state, local, and federal responders. Upon declaring a public health emergency, the Secretary can issue grants, enter contracts, and conduct investigations “into the cause, treatment, or prevention of the disease or disorder”; access the Public Health Emergency Fund; and temporarily hire public health specialists, among other actions. Public health emergencies last for 90 days, unless extended by the Secretary.³

On October 26, 2017, President Trump directed the Department of Health and Human Services to declare the opioid crisis a public health emergency.⁴ President Trump stated that the emergency declaration would “allow for [the] expanded access to telemedicine services” for addiction treatment; permit the Department of Health and Human Services (HHS) to hire temporary “specialists with the tools and talent needed to respond effectively” to the opioid crisis; allow “the Department of Labor to issue dislocated worker grants to help workers...displaced from the workforce because of the opioid crisis”; and enable the “shifting of resources within HIV/AIDS programs to help people eligible...receive substance abuse

¹ Presidential Memorandum for the Heads of Executive Departments and Agencies (October 26, 2017) (online at: <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-heads-executive-departments-agencies/>).

² 42 U.S.C. § 247d—Public health emergencies (online at <https://www.law.cornell.edu/uscode/text/42/247d>).

³ U.S. Department of Health & Human Services, “Public Health Emergency Declaration” (online at <https://www.phe.gov/Preparedness/legal/Pages/phedeclaration.aspx>).

⁴ President Donald J. Trump, “President Donald J. Trump is Taking Action on Drug Addiction and the Opioid Crisis,” *The White House* (October 26, 2017) (online at <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-taking-action-drug-addiction-opioid-crisis/>).

treatment.”⁵ In compliance with the President’s request, the Acting Secretary Eric Hargan declared a public health emergency.⁶

The declaration of a public health emergency is a potentially important step towards combatting the opioid crisis, which continues to wreak havoc on American communities. The declaration was the “first and most urgent recommendation” of the President’s Commission on Combating Drug Addiction and the Opioid Crisis, which noted that such a declaration would “empower [President Trump’s] cabinet to take bold steps” in tackling the crisis.⁷ An estimated 2.6 million Americans suffer from opioid use disorder, with rates rising nationwide.⁸ According to the Centers for Disease Control and Prevention, more than 42,000 people died from opioid-involved overdoses in 2016, up from around 33,000 in 2015⁹—yet only one in ten people in need of specialty treatment for substance use disorders are able to access it.¹⁰ Nearly half of all adults in the United States have a friend or family member who has struggled with addiction.¹¹

Given the severity of the crisis, we have grown increasingly concerned by reports that the President has done little to make use of his public health emergency declaration, leaving state and local communities without the resources they need to fight the opioid epidemic. The Administration has yet to officially allocate new funds to address the epidemic, in spite of bipartisan calls from governors and legislators that it do so.¹² Despite saying that it would work with Congress, the White House has put forward no proposals for authorizing new funding.

⁵ President Donald J. Trump, “President Donald J. Trump is Taking Action on Drug Addiction and the Opioid Crisis,” *The White House* (October 26, 2017) (online at <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-taking-action-drug-addiction-opioid-crisis/>).

⁶ U.S. Department of Health and Human Services, “HHS Acting Secretary Declares Public Health Emergency to Address National Opioid Crisis” (October 26, 2017) (online at <https://www.hhs.gov/about/news/2017/10/26/hhs-acting-secretary-declares-public-health-emergency-address-national-opioid-crisis.html>); Brianna Ehley, “Trump declared an opioids emergency. Then nothing changed.” *Politico* (January 11, 2018) (online at <https://www.politico.com/story/2018/01/11/opioids-epidemic-trump-addiction-emergency-order-335848>).

⁷ President’s Commission on Combating Drug Addiction and the Opioid Crisis, Draft Interim Report (online at <https://www.whitehouse.gov/sites/whitehouse.gov/files/ondcp/commission-interim-report.pdf>).

⁸ Lenny Bernstein, “Deaths from drug overdoses soared in the first nine months of 2016,” *Washington Post* (August 8, 2017) (online at https://www.washingtonpost.com/news/to-your-health/wp/2017/08/08/deaths-from-drug-overdoses-soared-in-the-first-nine-months-of-2016/?utm_term=.4914502d1cac); Nadia Kounang, “Opioid addiction rates continue to skyrocket,” *CNN* (June 29, 2017) (online at <http://www.cnn.com/2017/06/29/health/opioid-addiction-rates-increase-500/index.html>).

⁹ Centers for Disease Control and Prevention, “Drug Overdose Death Data” (last updated December 19, 2017) (online at: <https://www.cdc.gov/drugoverdose/data/statedeaths.html>).

¹⁰ Centers for Disease Control and Prevention, “Drug overdose deaths in the United States continue to increase in 2015” (last updated August 30, 2017) (online at <https://www.cdc.gov/drugoverdose/epidemic/index.html>); Lenny Bernstein, “Deaths from drug overdoses soared in the first nine months of 2016,” *Washington Post* (August 8, 2017) (online at https://www.washingtonpost.com/news/to-your-health/wp/2017/08/08/deaths-from-drug-overdoses-soared-in-the-first-nine-months-of-2016/?utm_term=.4914502d1cac); U.S. Department of Health & Human Services, Surgeon General, *Facing Addiction in America: The Surgeon General’s Report on Alcohol, Drugs, and Health* (2016) (online at <https://addiction.surgeongeneral.gov/surgeon-generals-report.pdf>).

¹¹ John Gramlich, “Nearly half of Americans have a family member or close friend who’s been addicted to drugs,” *Pew Research Center* (October 26, 2017) (online at <http://www.pewresearch.org/fact-tank/2017/10/26/nearly-half-of-americans-have-a-family-member-or-close-friend-whos-been-addicted-to-drugs/>).

¹² Geoff Mulvihill, “Governors urge Trump, Congress to do more to solve opioid crisis,” *Chicago Tribune* (January 18, 2018) (online at <http://www.chicagotribune.com/news/nationworld/politics/ct-governors-trump-opioid-crisis-20180118-story.html>).

Instead, the President again plans to cut funding for the White House Office of National Drug Control Policy (ONDCP)—slashing \$340 million from the Administration’s opioid response budget.¹³ Meanwhile, key leadership positions that require a deep understanding of this public health crisis—including the Drug Enforcement Administration (DEA) Administrator, and the Director of the ONDCP remain empty. Telemedicine initiatives the President supports have not been implemented, and the Department of Labor has yet to issue grants for dislocated workers.¹⁴

The President’s initial emergency declaration expired on January 23, 2018. On January 24th, Acting Secretary Hargan extended the emergency for an additional 90 days.¹⁵ This emergency extension provides the Administration with a second opportunity to use its emergency powers to combat the opioid epidemic.

It is critical that the federal government utilize all available resources to prevent and treat opioid addiction, as well as utilize available resources efficiently, and effectively. Therefore, to help us better understand the resources available to the executive branch to combat the opioid epidemic and the steps the Trump Administration has taken since declaring the crisis a public health emergency, we request that the GAO conduct a review of the following issues:

1. What supplemental authorities and resources are available to the executive branch upon the declaration of a public health emergency? Please summarize all of the options available to the Departments of Health, Labor, and other executive branch agencies as a result of such a declaration. In addition, please provide a description of how the federal government’s public health authorities affect the declaration of public health emergencies, or equivalent policy decisions, on the state level.
2. Which of the supplemental authorities described above has the Administration used since declaring a public health emergency on October 26, 2017? Please summarize the actions that the Administration took during the first 90-day emergency period—as well as during the second 90-day emergency period—to augment its response to the opioid crisis; the processes that the Administration used to track all of its actions to implement the declaration; and to the extent possible, any information that the agencies may have that describes the impact of their actions.
3. Upon declaring a public health emergency, the Administration gained access to the Public Health Emergency Fund. Please provide details on the Public Health Emergency Fund’s balance, describe how much the Administration accessed the fund, and how the agencies have spent this money.

¹³ Sarah Karlin-Smith and Brianna Ehley, “Trump again targets drug policy office, proposing 95 percent budget cut,” *Politico* (January 18, 2018) (online at https://www.politico.com/story/2018/01/18/trump-targets-drug-policy-office-297422?utm_source=STAT+Newsletters&utm_campaign=6404502ccc-MR&utm_medium=email&utm_term=0_8cab1d7961-6404502ccc-132322133).


¹⁴ Brianna Ehley, “Trump declared an opioids emergency. Then nothing changed.” *Politico* (January 11, 2018) (online at <https://www.politico.com/story/2018/01/11/opioids-epidemic-trump-addiction-emergency-order-335848>).

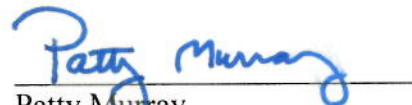
¹⁵ U.S. Department of Health and Human Services, “Renewal of Determination that a Public Health Emergency Exists” (January 19, 2017) (online at <https://www.hhs.gov/emergency/news/healthactions/phe/Pages/opioid-24Jan2018.aspx>).

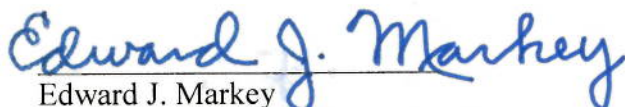
4. What analyses, if any, has the Administration conducted in order to assess the need for renewing a public health emergency declaration related to the opioid crisis?

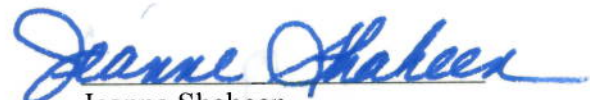
Please don't hesitate to reach out to Susannah Savage at 202-224-4543 with any questions or concerns.

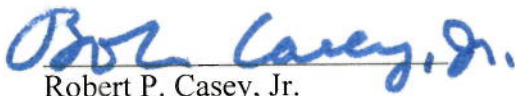
Sincerely,



Elizabeth Warren
United States Senator


Patty Murray
United States Senator

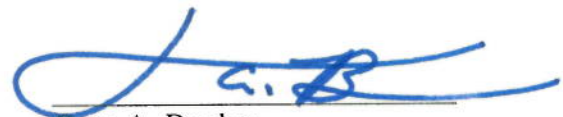

Edward J. Markey
United States Senator

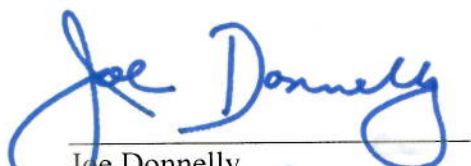

Jeanne Shaheen
United States Senator

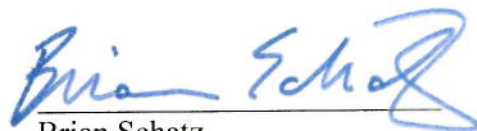

Robert P. Casey, Jr.
United States Senator


Bill Nelson
United States Senator


Richard Blumenthal
United States Senator


Cory A. Booker
United States Senator


Joe Donnelly
United States Senator


Brian Schatz
United States Senator




Debbie Stabenow
United States Senator




Margaret Wood Hassan
United States Senator



Sherrod Brown
United States Senator



Tammy Baldwin
United States Senator



Dianne Feinstein
United States Senator



Kirsten Gillibrand
United States Senator



Sheldon Whitehouse
United States Senator



Tim Kaine
United States Senator



Tammy Duckworth
United States Senator