

Congress of the United States
Washington, DC 20515

February 15, 2024

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

Thank you for your work to protect consumers from deceptive and unfair practices, particularly when it comes to safeguarding consumers' privacy. We write to you today to urge you to use the full power of your office to investigate allegations of deceptive and unfair trade practices in connection with Medicaid eligibility determinations in Texas.

Since April 2023, when the moratorium on Medicaid disenrollments ended, approximately 2 million people have lost Medicaid coverage in Texas. According to the Texas Health and Human Services Commission's (HHSC's) own data, more than 1.3 million of these individuals lost their coverage for procedural reasons, not because they were ineligible for coverage. More than 1 million of those who lost coverage are children. These numbers are staggering, Texas' Medicaid disenrollment rate is the highest in the country: 61 percent.

Recently, a group of consumer advocacy groups filed a complaint with the Federal Trade Commission (FTC), requesting an investigation into Deloitte on the grounds that its software, the Texas Integrated Eligibility Redesign System (TIERS), does not reliably conduct automatic renewals, a critical tool allowing families to renew their coverage easily during the unwinding period. The complaint alleges that Deloitte's software has presented inaccurate deadlines, sent termination notices stating required documents had not been submitted when they had been, or sent erroneous notices of ineligibility— all of which they allege constitute deceptive practices under Section 5 of the FTC Act. The complaint also alleges that Deloitte's TIERS system making inaccurate eligibility determinations and the failure to correct these errors is likely to cause harm to consumers. Losing coverage can impact a person's health or contribute to financial loss— all of which the complaint alleges constitute substantial injuries.

HHSC has admitted that, in the first few months of the redetermination process, system errors led to the denial of Medicaid coverage for 90,000 individuals and 24,000 children. While these individuals have had their coverage restored, it appears these overarching systemic errors have not been addressed. In an August 2023 letter to HHSC Commissioner Cecile Erwin Young, a group of whistleblowers in the agency familiar with the TIERS software reported that the system had more than 20 active problems that caused or could cause disruptions in coverage.

Although this complaint is focused on redeterminations in Texas, Deloitte had or currently has contracts with approximately 20 states to provide redetermination software. It is worth noting that 71 percent of people disenrolled across the country had their coverage terminated for procedural reasons. The issues with this software are not new— in 2019, the Deloitte-built system in Tennessee identified a failure to deem newborn children Medicaid-eligible for 12 months, as required by the Medicaid Act. Deloitte did not resolve this error for several months. Similar issues seem to be occurring in Texas. At least nine states have publicly shared issues with benefits eligibility systems.

As automated systems become more popular across industries, there must be appropriate oversight and accountability mechanisms to prevent harm to consumers. As the FTC demonstrated in recent cases, including the rulings on Global Tel*Link's prison communications services and Rite Aid's facial recognition software, there is a precedent for actions against both government contractors and automated systems that do not implement comprehensive safeguards to protect their consumers. Consumers in Texas undergoing eligibility determinations cannot reasonably avoid the Texas-selected software by choosing an alternative provider. For these reasons, the FTC has the authority and the responsibility to investigate these claims.

Thank you for your commitment to protecting Americans from harmful business practices. We appreciate your attention to this matter of paramount importance to the health and well-being of our constituents, and we look forward to your response.

Sincerely,



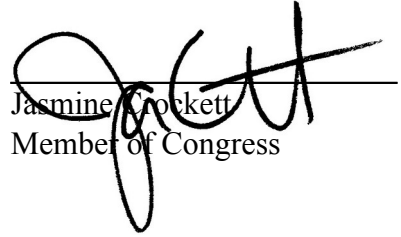
Lizzie Fletcher
Member of Congress



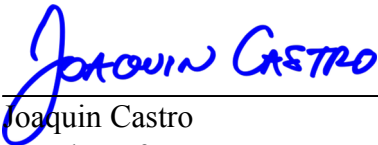
Colin Z. Allred
Member of Congress



Al Green
Member of Congress
Scion of the Enslaved
Africans -
Sacrificed to Make America
Great



Jasmine Crockett
Member of Congress



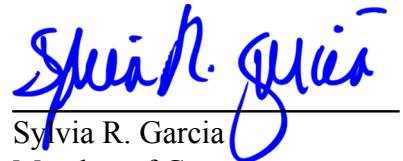
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