



U.S. OFFICE OF SPECIAL COUNSEL
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October 29, 2019

Mr. Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington
c/o Mr. Donald Sherman

VIA EMAIL (dsherman@citizensforethics.org)

Re: OSC File No. HA-19-000729

Dear Mr. Bookbinder:

This letter is in response to the complaint you filed with the U.S. Office of Special Counsel (OSC) alleging that Administrator for the Centers for Medicare and Medicaid Services (CMS) Seema Verma violated the Hatch Act. Specifically, you alleged that Ms. Verma advocated against Medicare for All in several tweets on her official Twitter account, an interview with Boris Epshteyn, and an official blog post as part of a White House-coordinated effort to defeat Democratic Party candidates in the 2018 midterm elections. As explained below, OSC has insufficient evidence to conclude that Ms. Verma violated the Hatch Act.

As a Senate-confirmed presidential appointee, Ms. Verma is subject to the restrictions of the Hatch Act.¹ Among other things, the Hatch Act prohibits covered employees from using their official authority or influence for the purpose of affecting the result of an election.² This provision prohibits employees from, for example, using their official titles or influence while engaging in political activity or from using official resources to advance or oppose candidates for partisan political office.³ Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.⁴

Your complaint alleged that Ms. Verma posted on “@SeemaCMS,” an account she uses for official purposes, three tweets that advocated against Medicare for All—a policy often associated with the Democratic Party. In one tweet, Ms. Verma wrote, “This year’s scariest Halloween costume goes to...” with a picture of a man wearing a Medicare for All shirt. In another tweet, Ms. Verma wrote, “Did I get your attention? Good. Medicare for All isn’t a joke. It’s a multi-trillion dollar drain on the American economy that will bankrupt future generations. It’s government controlled health care that will strip choice away from millions. It’s a bad idea.

¹ 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7323(a)(1). A covered employee also may not: knowingly solicit, accept, or receive a political contribution; run for partisan political office; knowingly solicit or discourage the political activity of anyone with matters pending before the employee’s office; or, generally, engage in political activity while on duty or in the federal workplace. However, as an employee appointed by the President by and with the advice and consent of the Senate, Ms. Verma is not prohibited from engaging in political activity while on duty or in the federal workplace. See 5 U.S.C. § 7323(a)(2)-(4) and § 7324.

³ See 5 C.F.R. § 734.302(b).

⁴ 5 C.F.R. § 734.101.

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And it IS scary.” In the third tweet, Ms. Verma retweeted Boris Epshteyn’s message, “@SeemaCMS believes that the Democrat-backed ‘Medicare for All’ is simply a bad idea. The focus of the agency? Strengthening the Medicare program itself. Watch our interview here.” The retweet also included a link to Epshteyn’s article, in which he drew a connection between the Democratic Party and Medicare for All, and a video interview with Ms. Verma.⁵

In a supplement to your complaint, you alleged that Ms. Verma again violated the law when she tweeted from her official account, “Medicare for All? Just another name for a government-run single payer system. Read more here about why #MedicareForAll is not the answer...” and linked to a blog post she wrote, which reiterated her opposition to the policy. You suggested that Ms. Verma’s public opposition to Medicare for All was part of a White House-coordinated effort to defeat Democratic Party candidates in the 2018 midterm elections by making this healthcare policy a wedge issue.

As part of our investigation we determined that “@SeemaCMS” is an official account and confirmed Ms. Verma posted the tweets at issue. But the Hatch Act does not prohibit employees from discussing their support for or opposition to policy proposals or issues, even if those issues are politically charged or associated with a particular political party. Accordingly, even in her official capacity, Ms. Verma was not prohibited from sharing her position on Medicare for All or discussing downsides to the policy in an interview or blog post. Likewise, merely retweeting an article that noted Medicare for All’s association with the Democratic Party without more did not violate the law. Therefore, Ms. Verma’s tweets, video appearance, and blog post did not violate the Hatch Act.

OSC also investigated your claim that Ms. Verma’s public opposition to Medicare for All was part of a White House-coordinated effort to defeat Democratic candidates in the 2018 midterm elections. After completing our investigation, OSC has insufficient evidence to conclude that Ms. Verma violated the law by working with the White House to influence the 2018 midterm elections, and we are closing our file without further action.

If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbrow at (202) 804-7139.

Sincerely,



Ana Galindo-Marrone
Chief, Hatch Act Unit

Cc: Eden Tadesse

⁵ The article stated, for example, “The slogan ‘Medicare for all’ may be useful to Democrats looking to fire up their base, but it is an absolutely unrealistic idea...”