



May 6, 2019

Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

RE: Patient Protection and Affordable Care Act; Increasing Consumer Choice through the Sale of Individual Health Insurance Coverage Across State Lines Through Health Care Choice Compacts

Submitted via www.regulations.gov

Dear Administrator Verma,

The Alliance of Community Health Plans (ACHP) is a national leadership organization bringing together innovative health plans and provider groups that are among America's best at delivering high-quality, affordable coverage and care. The non-profit, provider-aligned health plans that are ACHP members provide coverage in all lines of business for more than 21 million Americans across 34 states and the District of Columbia. As nonprofit plans, our members make it their mission to focus on beneficiaries, not profit and continually reinvest in care delivery and their communities. Many of our members operate in more than one state, none using the state enabled or federally enabled policies. These policies are expensive and burdensome on the states and insurers and ultimately provide little to no benefit to consumers.

Proposals to allow insurers to sell their policies across state lines are not new at either the state or federal level. Generally, such proposals are aimed at allowing insurers to sell products in multiple states without having to comply with an array of differing laws in each state. States – as the long-standing, primary regulators of health insurance – have the authority to decide whether to allow the sale of insurance across state lines. Giving plans the ability to sell across state lines does not guarantee more options or expanded access to previously uninsured consumers. Policies that allow insurers to sell across state lines does not mean that coverage will be affordable or encourage more competition based on the effects to the risk pool and local economy. This is particularly the case in rural or underserved areas - where the expansion is needed most - without insurer incentives to expand access. These areas are too sparsely populated to offer a competitive market place. The NAIC predicts that interstate sale would actually reduce the options available to consumers because it gives too much leeway for plans to choose states with more relaxed regulations and therefore selecting their risk pool putting higher risk individuals and states with more rigid regulations at a significant disadvantage. While some states like Maine, Wyoming and Georgia created the possibility for out of state insurers to sell health plans across state lines, insurance companies have not taken advantage of those opportunities for a number of reasons outlined below:

- **Regulatory Authority and Autonomy.** Selling insurance across state lines would limit the regulatory authority of states. State insurance regulators are reluctant to allow out-of-state insurers with differing regulations into their market because of the potential risk to consumers. By creating a confusing regulatory structure, state officials are ineffective adjudicators of complaints and consumers may not know who to seek a resolution of their issue.

- **Provider Networks.** The process of building a network and contracting with providers is complex and time intensive. Out-of-state insurers seeking to offer plans across state lines face challenges in building a provider network with competitive rates (which in turn affects overall premiums). Existing in-state insurers, with their well-established relationships with hospitals, doctors, and other providers, are at a competitive advantage that discourages newcomers to the market.
- **Administrative Issues.** While health care compacts may simplify administration in some areas, implementation could be challenging in other ways. This includes state as well as health plan resources required to establish, oversee and implement a health care compact or similar arrangement. Other considerations include the complexity of health insurance and whether regulators would be willing to have standards for the sale of health insurance to be set and enforced by regulators in another state.
- **Federalism Issues.** A new federal law allowing for sale of health plans across state laws would effectively need to preempt state laws and regulations governing health insurance. This may be inconsistent with recent proposals to undo certain provisions of the ACA and return greater power to the states –for example, by giving states greater flexibility and autonomy over health insurance to respond to local market conditions and the needs and preferences of their citizens.
- **Health Care Spending.** Selling cheaper insurance to someone in another state with higher costs of care does nothing to bring down a consumers’ out-of-pocket expenses or health care spending on the part of the insurer or government.
- **Risk Pool Effects.** Without benefit standards there would be a “race-to-the-bottom” with smaller, local insurers at a disadvantage. The domestic insurer would likely have to increase premiums, exit the market or move to another state. This leaves consumers with HCC plans that may offer fewer benefits, negating the opportunity for expanded coverage and competition. Differing standards for these arrangements could lead to segmentation of the risk pool and higher costs and premiums in certain markets. For example, plans with certain benefit packages (e.g., less generous coverage) sold by out-of-state entities may attract individuals with lower health risks and result in substantially higher premiums for less healthy individuals who remain to purchase coverage within the state. While healthier consumers could presumably have greater access to cheaper and less comprehensive coverage, sicker individuals and people with pre-existing conditions would face significantly increased costs and less choice.

Selling across state lines will competitively disadvantage high quality, cost effective, community oriented health plans, like members of ACHP. Some of our plans are closed HMOs with not only deep ties to their communities, but significant and productive working relationships with their local providers. Allowing a large, national carrier domiciled in perhaps a state with a less robust regulatory structure to compete against a plan whose successful business model relies upon a local presence would be unproductive to the goal of lowering costs and increasing competition.

ACHP member plans have been in their communities for many years providing coverage and care to both healthy individuals and people with increased health care needs. By creating opportunities to segment the risk pool in their regions, selling insurance across state lines would undermine the ability of community-based health plans to provide coverage to their entire populations.



Ceci Connolly
 President and CEO
 Alliance of Community Health Plans