April 19, 2018

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

Attention: Short-Term, Limited-Duration Insurance Proposed Rule
CMS-9924-P

Submitted electronically to: https://www.regulations.gov

Dear Administrator Verma,

The Alliance of Community Health Plans (ACHP) is pleased to comment on the Proposed Rule, *Short-Term, Limited-Duration Insurance,* issued by the Departments of Health and Human Services, Treasury and Labor (hereinafter referred to as "the Departments") and published in the *Federal Register* on February 21, 2018.

ACHP members are non-profit health plans providing coverage and care for more than 20 million Americans in 32 states and the District of Columbia in all lines of business. They are deeply invested in their communities and consistently lead government and private ratings on quality and customer service. Member plans have served their communities for decades and, as non-profit organizations, do not enter or exit markets based solely on financial considerations. Plans are characterized by close relationships with providers either through integrated delivery systems or carefully managed networks.

ACHP shares the Departments' goal of improving access to affordable health insurance for individuals. As they are currently designed and offered by some of our members, short-term, limited duration plans provide valuable *stop-gap coverage* for beneficiaries under certain circumstances. They are not appropriate coverage for durations lasting longer than three months. **ACHP supports maintaining the existing 90-day limit for short-term, limited duration plans.** Extending the allowable duration from three months to 364 days will be detrimental to consumers because it will raise premiums and provide inadequate coverage.

Importantly, this proposal would create a parallel, non-compliant insurance market, undercutting comprehensive policies offered to individuals and families. **ACHP asks the Departments to not finalize the proposed rule and maintain existing regulations on short-term, limited duration plans.**

In brief, our concerns are:

- Short-term, limited duration plans will undermine consumer protections and will not provide comprehensive coverage and care.
- The proposed rule will destabilize the individual market leading to higher premiums for consumers.
- The proposed rule will cause more health insurance plans to leave the market, leading to fewer coverage options.
- The proposed rule will increase the number of uninsured and lead to increased federal spending.

Inadequate Consumer Protections

The proposed rule will undermine consumer protections because short-term, limited duration plans do not require coverage of essential health benefits or coverage of pre-existing conditions. There is a substantial risk that consumers will not understand the coverage limitations that accompany short-term plans. Contracts for medical coverage can be quite complex, and consumers may assume that essential health benefits are covered by short-term, limited duration plans, but for a shorter period of time. This could lead to consumers purchasing health insurance that is inadequate for their medical needs, potentially resulting in personal bankruptcy and an increase in uncompensated care for hospitals and other facilities. There is evidence of this connection between coverage and personal financial status: A Consumer Reports study found that increased health care coverage over the past several years was associated with a reduction by half in the number of personal bankruptcy filings.[1] With the increased use of short-term, limited duration plans, we anticipate a troubling reversal of this trend.

Beneficiaries of short-term, limited duration plans also face unpredictable financial risk. These plans have substantially higher out-of-pocket maximums than policies offered through the exchanges. For the 2018 plan year, the out-of-pocket limit for an exchange plan is $7,350 for an individual plan and $14,700 for a family plan. Short-term, limited duration plans have no limit on out-of-pocket maximums and each plan can vary substantially. A sample of the best-selling policies in various states showed a range of $7,000 to $20,000 for out-of-pocket maximums.[2] Medical costs are oftentimes unexpected and unpredictable. A high and variable out-of-pocket maximum will make it harder for individuals to plan for future medical care.

Market Segmentation Risk

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[1] St. John, Allen, May 2, 2017, "How the Affordable Care Act Drove Down Personal Bankruptcy" Consumer Reports, https://www.consumerreports.org/personal-bankruptcy/how-the-aca-drove-down-personal-bankruptcy/

[2] Palanker, Dania, et al., New Executive Order: Expanding Access to Short-Term Health Plans Is Bad for Consumers and the Individual Market, The Commonwealth Fund, http://www.commonwealthfund.org/publications/blog/2017/aug/short-term-health-plans

A key element of any healthy, sustainable insurance market is that a broad pool of enrollees share in the spreading of risk. The effect of the proposed rule will be to undercut the individual market risk pool as more individuals leave their current health plans and purchase short-term alternatives. This will further destabilize an already difficult market for individual and family coverage.

Short-term, limited duration plans typically offer a very narrow set of benefits; for example, they typically do not cover medical treatment for pre-existing conditions, maternity care and mental health care. They may have unrealistically low annual and lifetime limits, for example many policies cap covered benefits at $1 million or less. Some may exclude coverage for prescription drugs. These limitations are likely to make the coverage less expensive and more attractive to younger, healthier individuals but will leave them with coverage that is not adequate should they require more than routine medical care.

ACHP is also concerned that the proposed rule will cause more insurers to flee the market, leaving consumers with fewer coverage options. As healthier individuals choose to purchase short-term, limited duration plans, the high costs of care for enrollees with serious, acute illness or injury and chronic conditions will lead to unsustainable losses that will force insurers to leave the individual market altogether. Our member plans have already expressed their doubts about how they can set appropriate premiums for 2019 given the uncertainty about future participation in the individual market due to this rule and the proposed rule to expand access to Association Health Plans (AHPs).

The proposed rule will also have a significant financial impact on the overall healthcare system. According to the Departments' own estimates, should the proposed rule be finalized, premiums would increase by up to $69/month, resulting in federal outlays for advance premium tax credits that would increase by approximately $3 billion. The Urban Institute estimates that 4.2 million people would enroll in expanded short-term coverage and that enrollment in the ACA individual market would fall by 2.1 million people in 2019 due to the availability of short-term coverage alone. [3]

In a recent analysis, the consulting firm Wakely estimates that the long-term result of the proposed rule, combined with the effects of the repeal of the individual mandate, will result in a premium increase in the range of 10.8% to 12.8% and a drop in enrollment of 20.9% to 26.3%.[4] The brunt of the premium increase will affect unsubsidized enrollees, disproportionally hurting middle class, working families. ACHP believes that the cumulative effects of the finalization of this rule, along with the AHP proposed rule, will be higher premiums in ACA markets, a higher number of uninsured people, a higher number of people without minimum essential coverage and higher federal spending.

<u>Regulatory Issues</u>

There has been discussion of whether short-term, limited duration plans should be allowed to be renewed by the consumer at the end of the policy term. ACHP does not believe that these plans should be renewable. As noted above, they provide satisfactory, interim coverage for individuals who are temporarily between more comprehensive health insurance. If the plans were extended to 364

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[3]Blumberg, Linda., et al., The Potential Impact of Short-Term Limited Duration Policies on Insurance Coverage, Premiums, and Federal Spending, The Urban Institute, https://www.urban.org/sites/default/files/publication/96781/stld_draft_0226_finalized_0.pdf

[4] Cohen, M., Anderson, M., Winkelman, R. (2018) Effects of Short-Term Limited Duration Plans on the ACA Compliant Individual Market. Wakely. http://www.communityplans.net/wp-content/uploads/2018/04/Wakely-Short-Term-Limited-Duration-Plans-Report.pdf

days and renewable, they would essentially constitute a parallel, non-compliant market, undercutting comprehensive policies offered to individuals and families.

ACHP strongly recommends that the proposed rule not limit states' abilities to regulate the sale of short-term, limited duration health plans. States are in the best position to monitor insurance policies in their own jurisdictions, and we believe the public interest is best served when states have broad authority to regulate. In the proposed rule, the Departments indicate that states may continue to apply state law requirements. ACHP asks that, should the proposed rule be finalized, the Departments reaffirm this point and provide any additional clarification that may be necessary.

Conclusion

With few advantages of short-term, limited duration insurance and the high risk of introducing additional instability in the small group and individual marketplaces, ACHP recommends that the Departments not finalize the proposed rule. We suggest that other policy approaches, such as establishing a federal reinsurance program for the ACA-compliant individual and small group markets, would be far more effective in promoting affordable coverage options. We welcome the opportunity to discuss other stabilization measures at your earliest convenience.

Thank you for your consideration of ACHP's comments. If we can answer any questions or provide additional information, please contact Howard Shapiro, Director of Public Policy, at hshapiro@achp.org.

Sincerely,

Ceci Connolly

Ceci Connolly
President and CEO