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Submitted electronically via www.regulations.gov.

April 23, 2018

Ms. Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-9924-P
P.O. Box 8010
Baltimore, MD 21244-8010

RE: Short-Term, Limited-Duration Insurance (CMS-9924-P)

Dear Ms. Verma:

The Association of American Medical Colleges (“the AAMC” or “Association”) welcomes this opportunity to comment on the proposed rule entitled “Short-Term, Limited-Duration Insurance,” 83 *Fed. Reg.* 7437 (February 21, 2018), issued by the Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; and the Centers for Medicare & Medicaid Services, Department of Health and Human Services (“the Agencies”).

AAMC is a not-for-profit association dedicated to transforming health care through innovative medical education, cutting-edge patient care, and groundbreaking medical research. Its members are all 151 accredited U.S. and 17 accredited Canadian medical schools; nearly 400 major teaching hospitals and health systems, including 51 Department of Veterans Affairs medical centers; and more than 80 academic societies. Through these institutions and organizations, the AAMC serves the leaders of America’s medical schools and teaching hospitals and their more than 173,000 full-time faculty members, 89,000 medical students, 129,000 resident physicians, and more than 60,000 graduate students and postdoctoral researchers in the biomedical sciences. Together, these institutions and individuals are the American academic medicine community.

The proposed rule seeks to amend the definition of short-term, limited-duration (STLD) insurance to allow these policies to be offered for a maximum period of less than 12 months. Policies also would be required to include a notice to alert individuals to the fact that these policies do not have to comply with the requirements of the Affordable Care Act (ACA). The AAMC appreciates the Agencies’ efforts to improve the availability of affordable health insurance coverage. We agree that consumers must have access to high-quality, high-value health care providers, and addressing ways to make health insurance more affordable is one way to achieve this goal. Yet, throughout the proposed rule, there is repeated acknowledgement that the potential consequences of expanding access to STLD health plans, stating, for example, that allowing “relatively young or healthy” individuals to purchase insurance policies that do not

comply with ACA requirements “could potentially weaken States’ individual market single risk pool” (p. 7443). The AAMC agrees. The proposal expanding access to STLD health insurance offerings will segment the insurance market, leading to de-stabilization and premium increases for sicker individuals and leaving patients with inferior health insurance coverage, potentially limiting access to care. Furthermore, the AAMC believes that these short-term plans will cause providers who treat these patients to be either underpaid or not paid at all. **Therefore, the Association strongly urges the Agencies to not finalize the rule as proposed.**

Require All Health Plans to Offer Essential Health Benefits

Part of the ACA’s goal to offer comprehensive health care coverage for all Americans included the requirement to provide coverage for certain items and services, including these essential health benefits (EHBs): (1) ambulatory patient services; (2) emergency services; (3) hospitalization; (4) maternity and newborn care; (5) mental health and substance use disorder services including behavioral health treatment; (6) prescription drugs; (7) rehabilitative and habilitative services and devices; (8) laboratory services; (9) preventive and wellness services and chronic disease management; and (10) pediatric services, including oral and vision care.¹ By setting this standard of benefits, consumers are assured of a uniform level of coverage among of health plans, and insurers are prohibited from cutting benefits to reduce their costs.

By expanding access to STLD health plans, more policies exempt from ACA requirements, including coverage for EHBs, will be sold. As a result, to provide access to insurance options with low premiums, the proposed rule means that STLD plans could consist of scarce benefit packages that provide inadequate coverage to patients who unexpectedly face a major illness or injury. We already see the tremendous financial burden in the market caused by inadequate coverage leading to financial instability for patients who are ill. In 2016 the Federal Reserve issued a *Report on the Economic Well-Being of U.S. Households in 2015*² that found that 46 percent of adults could not cover an emergency expense of \$400, or would cover it by selling something or borrowing money. These new regulations will compound this problem for those who seek inexpensive coverage but have inadequate benefits or high out-of-pocket costs.

Kaiser also reported that 75 percent of consumers that purchased a plan in the individual market did so to protect against high medical bills and for “peace of mind.”³ The AAMC is concerned that, as proposed, STLD plans will not meet the needs of consumers. For example, when consumers face a sudden major unexpected illness or injury, they may be surprised and angered to find that their STLD plan does not protect them from high medical bills. Reducing requirements for short-term plans might lower premiums in the short term; however, the benefits included in the plan may be so reduced that they provide inadequate coverage of basic health needs. As discussed later in this letter, the notice that the Agencies propose to include with these policies is inadequate to alert consumers to these policies’ risks. **The AAMC urges CMS to**

¹ <https://www.cms.gov/ccio/resources/data-resources/ehb.html>

² <https://www.federalreserve.gov/2015-report-economic-well-being-us-households-201605.pdf>

³ Kaiser Health Tracking Poll – March 2018: Non-Group Enrollees. April 3, 2018.

require that, at a minimum, short-term plans are required to provide minimum benefits packages that cover the EHBs.

Americans Want to Purchase Insurance in the Exchanges That Promote Access and Affordability

Americans have benefited from the opportunity to purchase affordable health insurance coverage through the individual marketplace. Robust enrollment numbers for 2018 show that consumers are committed to securing coverage. The AAMC believes that rather than creating a new insurance option to promote access and affordability, efforts should be made to improve the individual and small group marketplaces. According to a recent Kaiser Family Foundation report, consumers enrolled in plans offered through the Exchanges worry about future affordability of their copays, deductibles, and premiums. Almost 80 percent of marketplace enrollees are concerned that they may not be able to afford the health insurance plan they currently have.⁴ Additionally, more than half of marketplace enrollees are worried that plans will stop selling insurance in the Exchanges.⁵ **We urge CMS to work with stakeholders to improve the current individual and small group marketplace by finding ways to bolster insurer participation, stabilize premiums, and ensure robust health insurance coverage options for all Americans.**

Support Efforts to Stabilize the Health Insurance Market

Originally, STLD policies were marketed as a stopgap solution for individuals who were uninsured for a short period of time; for example, a person between jobs. These STLD plans were regulated by the states and not subject to much federal regulation. Because the plans were not required to conform to the ACA's individual market reforms, they provided a cheaper, less comprehensive health insurance option. However, some individuals were purchasing these policies as a primary form of coverage. In response to this uptick in individuals purchasing short-term plans, in 2016 the Obama administration limited these short-term policies to three months and prevented policies from being renewed.

Executive Order (EO) 13813, issued October 12, 2017, called on federal agencies to prioritize improvements to health insurance options outside of the Exchanges by expanding “the availability of and access to” STLD plans.⁶ The EO went on to state that “to the extent permitted by law and supported by sound policy” these plans should be allowed to “cover longer periods and be renewed by the consumer.”⁷

In this proposed rule, the agencies are proposing to amend the definition of STLD plans to expand the availability of these plans to consumers. While the Agencies acknowledge that this type of insurance “was designed to fill temporary gaps in coverage” (83 *Fed. Reg.* 7438) and

⁴ Kaiser Health Tracking Poll – March 2018: Non-Group Enrollees. April 3, 2018 https://www.kff.org/health-reform/poll-finding/kaiser-health-tracking-poll-march-2018-non-group-enrollees/?utm_source=PolicyCrush&utm_campaign=9a2c558082-EMAIL_CAMPAIGN_2018_04_03&utm_medium=email&utm_term=0_fe688512b8-9a2c558082-115543209

⁵ Ibid.

⁶ Presidential Executive Order Promoting Healthcare Choice and Competition Across the United States. <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-promoting-healthcare-choice-competition-across-united-states/>

⁷ Ibid.

would likely draw young, healthy individuals out of the Exchange marketplace risk pool, they feel that individuals who will likely purchase these plans will benefit from lower premiums, a tenet of the Executive Order. However, these plans will likely have narrow provider networks, high deductibles, and other cost-sharing that patients may only realize when faced with serious illness or injury. These plans also probably will shift the risk pool and drive up costs for older and less healthy consumers who remain, thereby jeopardizing the stability of the individual market. The AAMC understands the need for regulatory flexibility to ensure the availability of affordable insurance options, and supports the goal of reducing regulatory burden. **Therefore, the Association urges that the proposed rule not be finalized, but instead CMS work to improve the current health insurance marketplace to ensure that all consumers have access to high-value insurance options.**

Ensure Consumer Protections Are Maintained

The proposed rule notes that STLD plans will not be required to provide the safeguards that current ACA-compliant plans are required to provide – preexisting condition exclusion prohibition, annual or lifetime dollar limits, preventive care, maternity and prescription drug coverage, rating restrictions, and guaranteed renewability (p.7443). The Agencies note that individuals who choose to enroll in an STLD plan could experience “loss of access to some services and providers” and an “increase in out-of-pocket expenditures” (p.7443). Additionally, because these plans are not considered to be ACA-compliant, it is noted that individuals may incur a penalty with the IRS for the months they do not have minimal essential coverage during 2018 (p. 7443). Changes to coverage requirements may exacerbate confusion that consumers face when searching for affordable insurance. Furthermore, depending on the state where an individual purchases a short-term insurance policy, that individual may be at risk of having claims denied due to a preexisting condition or their policy rescinded because of post-claims underwriting.⁸

Should this rule be finalized as proposed, only when patients attempt to receive care will they realize the full impact of these changes. For example, a patient diagnosed with cancer may not realize that the insurance plan she selected does not provide adequate coverage for cancer treatments until she seeks medical treatment, leaving her with few options for these necessary life-saving services. In another instance, a family may find out that their newborn’s neonatal intensive care unit (NICU) stay is not covered only after facing extraordinary costs. Insufficient coverage for needed health care results in poorer health for patients and may lead to the use of high-cost services, such as emergency department visits or hospitalizations that could have been prevented if adequate care were available earlier.

It is not patients alone who will feel the impact of less comprehensive insurance coverage. Hospitals and physicians will find themselves treating more patients who are uninsured or underinsured. These patients may forego needed, routine care because of limited benefits or high cost sharing responsibilities. Consequently, these patients will be sicker when they finally seek

⁸ Commonwealth Fund. State Regulation of Coverage Options Outside of the Affordable Care Act: Limiting the Risk to the Individual. March 29, 2018. <http://www.commonwealthfund.org/publications/fund-reports/2018/mar/state-regulation-coverage-options-outside-aca>

care – many waiting until they need to go to an emergency room – and thus will require an increased use services that are likely to be more costly.

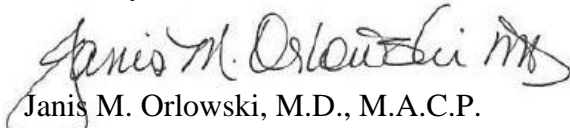
Increase Transparency of STLD Notice Requirements

At a time when there is much discussion about the need for transparency, the proposed notice requirement is inadequate to alert individuals to the limitations of STLD insurance. The notice accurately states that “this coverage is not required to comply with federal requirements for health insurance, principally those contained in the Affordable Care Act.” It also states that the coverage is not “minimum essential coverage.” While such statements are meaningful to those familiar with the ACA and its various requirements, it is unlikely they would be meaningful to most consumers. If this rule is finalized, the notice should be written in plain English and should clearly spell out what is not covered and what the out-of-pocket expenses are for which the insured will be responsible. Consumers also should be informed that the policy’s pricing is based on the insurer’s assessment of their individual risk.

Conclusion

Thank you for the opportunity to comment on the short-term, limited-duration insurance proposed rule. We would be happy to work with the Agencies on any of the issues discussed above or other topics that involve the academic health center community. If you have questions regarding our comments, please feel free to contact Mary Mullaney at 202.909.2084 or mmullaney@aamc.org.

Sincerely,



Janis M. Orlowski, M.D., M.A.C.P.
Chief Health Care Officer, AAMC

cc: Ivy Baer, J.D., M.P.H, AAMC
Mary Mullaney, AAMC