



July 28, 2021

Xavier Becerra
Secretary
United States Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

Re: Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond Proposed Rule (CMS-9906-P)

Dear Secretary Becerra,

The American College of Physicians (ACP) appreciates this opportunity to comment on the Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond Proposed Rule. ACP is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 163,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

Navigator Program Standards (155.210)

ACP strongly supports sustained funding to promote open enrollment, provide in-person and virtual enrollment assistance, and field post-enrollment inquiries from consumers. The Navigator program raises awareness about open enrollment and provides objective guidance on qualified health plan enrollment. ACP supported the administration's efforts to increase funding for the Navigator program after years of financial neglect and its mission is especially important as millions seek coverage during the 2021 Special Enrollment Period spurred by the COVID-19 public health emergency.

Assisting patients with understanding basic health insurance concepts, including locating physicians and other preferred health care professionals and how to use health coverage after they are enrolled, is especially important. Health insurance is complex and many lack sufficient health insurance literacy or familiarity with premiums, cost sharing, benefit packages and other terminology and concepts. Evidence shows health literacy barriers exist across populations but may particularly affect people of color and navigation support may help address these barriers ⁽ⁱ⁾. Low health insurance literacy may also be associated with avoidance or delayed receipt of preventive care due to perceptions about cost even though recommended preventive services are exempt from cost sharing ⁽ⁱⁱ⁾. **We support the proposal to reinstitute previous requirements that Navigators in federally-facilitated exchanges (FFE) be required to provide consumers with information and assistance on certain post-enrollment topics, such as the**

Exchange eligibility appeals process, the Exchange-related components of the premium tax credit reconciliation process, and the basic concepts and rights of health coverage and how to use it.

Exchange Direct Enrollment Option (155.221(j))

In a letter regarding the Notice of Benefit and Payment Parameters for 2022, ACP expressed opposition to “allowing states to engage private sector entities, like web-brokers and insurance agents, to operate an enrollment pathway in place of the centralized Exchange that enables apples-to-apples plan comparisons.” The College said a policy change was superfluous, complex, and would be confusing to people familiar with shopping for and purchasing coverage through the Exchange. Concern was also raised that Enhanced Direct Enrollment (Exchange DE) exchanges would direct people to non-Affordable Care Act (ACA)-compliant plans, like short-term, limited duration plans. **For these and other reasons, ACP supports the proposal to repeal the Exchange DE option.**

Open Enrollment Extension (155.410(e))

Some commenters have cited the reduction in the length of the open enrollment period as part of an effort to undermine the ACA, potentially causing insurers to raise premiums or leave the market ⁽ⁱⁱⁱ⁾. California’s plan year 2020 enrollment gains have been partially attributed to a longer open enrollment period ^(iv). **ACP supports extending the open enrollment period to afford people sufficient time to shop for coverage that meets their health care needs and budget.**

Network Adequacy (156.230)

ACP remains concerned about qualified health plans with narrow provider networks and inaccurate provider directories. Previously, we opposed the elimination of the federal government’s network adequacy reviews of FFE-based qualified health plans and continue to support more stringent federal network adequacy review activities. In 2015, ACP supported the agency’s proposal to determine that a state’s network adequacy assessment methodology is acceptable if it includes quantitative measures ^(v). **We recommend that the Departments reconsider requiring states to use minimum quantitative network adequacy metrics and adopt other policies to ensure access to plans with broad “provider” networks so that the care continuity is not interrupted.**

Provisions of the Proposed Rule for Section 1332 Waivers

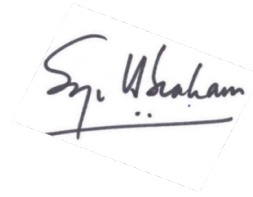
ACP opposed codifying the 2018 Guidance on 1332 State Innovation Waivers in the 2022 Payment Notice rule. We remain concerned that the 2018 Guidance provides too much flexibility to states in meeting the waiver’s four statutory guardrails. As a result, states could seek to promote alternative coverage options that do not comply with ACA requirements, patient protections and/or impose high cost-sharing. We appreciate the Department’s intent to revise the 1332 waiver policy to strengthen the implementation of the ACA, improve health equity, and prohibit adoption of waiver policies that would reduce enrollment in comprehensive coverage or create barriers to high-quality health care, such as medical underwriting and limited benefit packages that conflict with the intent of the law.

ACP supports the proposal to remove the reference and policy interpretations based on the 2018 Guidance and supports changes to language that ensure the guardrails on comprehensive coverage, affordability, and coverage reflect the intent of the ACA. ACP also appreciates the attention to considering the effects of 1332 waivers on vulnerable or underserved residents, people with serious

health issues, and people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality (vi).

Thank you for considering our comments. Please contact Ryan Crowley, Senior Associate, Health Policy at rcrowley@acponline.org if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "George M. Abraham". The signature is written in a cursive style and is enclosed within a faint, light-colored rectangular border.

George M. Abraham, MD, MPH, FACP, FIDSA
President
American College of Physicians

ⁱ Villagra VG, Bhuya B, Coman E, Smoith DO, Fifield J. Health Insurance Literacy: Disparities by Race, Ethnicity, and Language Preference. *Am J Mgd Care*. 2019;25(3):371-e75. Accessed at <https://www.ajmc.com/view/health-insurance-literacy-disparities-by-race-ethnicity-and-language-preference>

ⁱⁱ Tipirneni R, Politi MC, Kullgren JT, Kieffer EC, Goold SD, Scherer AM. Association Between Health Insurance Literacy and Avoidance of Health Care Services Owing to Cost. *JAMA Netw Open*. 2018;9(7):e184796.

ⁱⁱⁱ Corlette S, Blumberg LJ, Lucia K. The ACA's Effect on the Individual Insurance Market. *Health Aff*. 2020;39(3):436-444. Accessed at <https://www.healthaffairs.org/doi/10.1377/hlthaff.2019.01363>

^{iv} Waddill K. CA Sees 41% New Enrollment Spike in State Health Insurance Market. *Health Payer Intelligence*. February 20, 2020. Accessed at <https://healthpayerintelligence.com/news/ca-sees-41-new-enrollment-spike-in-state-health-insurance-market>

^v Riley W. ACP Letter to Acting CMS Administrator Slavitt re: HHS Notice of Benefit and Payment Parameters for 2017. December 21, 2015. Accessed at https://www.acponline.org/acp_policy/letters/letter_cms_proposed_rule_benefit_payment_2017_2015.pdf

^{vi} https://www.govinfo.gov/content/pkg/FR-2021-07-01/pdf/2021-13993.pdf?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email