



June 29, 2020

The Honorable Frank Pallone  
Chair  
Energy and Commerce Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Richard Neal  
Chair  
Ways and Means Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Robert “Bobby” Scott  
Chair  
Education and Labor Committee  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairmen,

On behalf of the American College of Physicians (ACP), I am writing to applaud your efforts in introducing legislation designed to enhance the Patient Protection and Affordable Care Act (ACA), the 2010 landmark law that instituted transformational changes to the U.S. health care system. The Patient Protection and Affordable Care Enhancement Act (H.R. 1425) is designed to make improvements to existing law by expanding access to health care coverage and services, strengthening protections for people with pre-existing conditions, making prescription drugs more affordable, and reversing harmful regulations meant to undermine the law. ACP supports many of the policies outlined in H.R. 1425, as discussed in detail below, and reaffirms its position that the ACA should not be repealed.

The American College of Physicians is the largest medical specialty organization and the second-largest physician membership society in the United States. ACP members include 159,000 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. Internal medicine specialists treat many of the patients at greatest risk from COVID-19, including the elderly and patients with pre-existing conditions like diabetes, heart disease and asthma.

## **REFLECTIONS ON THE PATIENT PROTECTION AND AFFORDABLE CARE ACT**

ACP has long endorsed policies to achieve universal health insurance coverage and supported passage of the ACA in 2010. The ACA literally transformed the U.S. health care system by expanding access to coverage, providing consumer protections and essential benefits, and improving quality of care for millions of Americans. Now more than ever, as this nation struggles through the COVID-19 pandemic, Americans need access to affordable care and coverage with all the current-law safeguards and protections in place so families do not fall into financial ruin due to a catastrophic illness, such as the coronavirus.

Despite impressive improvements in insurance status, access to care, and economic security measures, the ACA is still not a perfect law, nor can it be, and several repeal efforts combined with poor stewardship threaten to exacerbate the law's problems. ACP believes the ACA needs to be further strengthened and, in May 2019, ACP released a new position paper entitled, "[Improving the Patient Protection and Affordable Care Act's Insurance Coverage Provisions](#)," as published in the Annals of Internal Medicine. ACP's paper calls for efforts to bolster the ACA, including stabilizing the health insurance market, expanding Medicaid, increasing competition in the marketplace, and amplifying awareness about how the ACA works to help patients and how to enroll in coverage plans. The paper identifies common-sense approaches to improve the ACA as internists continue to advocate for universal health care for all patients and consumers.

## **PROVISIONS SUPPORTED BY ACP IN H.R. 1425**

### **Establishing a Health Insurance Affordability Fund**

Sec. 106 of the bill allocates \$10 billion annually to states so they can establish a state reinsurance program or use the funds to provide financial assistance to reduce out-of-pocket costs for individuals enrolled in qualified health plans. It also requires the Centers for Medicare and Medicaid Services (CMS) to establish and implement a reinsurance program in states that do not apply for federal funding.

**ACP's Position:** Many good things came out of the ACA, but it is also the case that the health insurance marketplace has been struggling over the past few years, due to a confluence of many factors. Premiums have been rising, and many health insurers have pulled out of the individual health exchanges. In addition, the administration and Republican-led efforts in Congress have taken or proposed actions that non-partisan researchers have found will further destabilize the market by increasing premiums, undermining patient protections, and resulting in "adverse selection" among persons obtaining coverage in the individual market. ACP policy states that the federal government should stabilize the marketplace by establishing a permanent reinsurance program. Reinsurance can help ensure that patients get to keep the coverage they have while protecting insurers from high costs.

### **Rescinding the Short-term Limited Duration Insurance Regulation**

Sec. 107 of the bill reverses the administration's final rule expanding short-term, limited-duration health plans, which are not required to comply with any of the ACA's consumer protections (protections for pre-existing conditions, guaranteed issue, community rating, essential health benefits, and many others).

**ACP's Position:** ACP supports reversing this final rule precisely because these short-term plans would not be required to include all of the essential health benefits currently required of all plans sold in the individual insurance market and would allow insurers to charge more for plans needed by individuals with pre-existing conditions. Such short-term plans typically do not cover prescription drugs, maternity care, mental health, and substance use disorder treatments, putting individuals and families that enroll in such plans at risk if they develop a condition requiring such services. Because these plans also may attract people who are healthier, people who remain in the ACA-qualified plans are likely to be sicker, resulting in double-digit premium increases for qualified health plans, more uninsured persons, and increased federal spending, according to independent researchers.

### **Incentivizing Medicaid Expansion**

Sec. 201 of the bill provides 100 percent federal medical assistance percentage (FMAP) for Medicaid expansion beneficiaries for the first three years after a state expands Medicaid, and then scales down to 95 percent FMAP, 94 percent FMAP, and 93 percent FMAP, for, respectively, years four, five, and six. In year seven and beyond, the FMAP for the expansion population would be 90 percent. This enhanced FMAP schedule was available to states that expanded Medicaid beginning in 2014. The bill would provide parity to states that chose to expand Medicaid subsequent to 2014.

**ACP's Position:** ACP reaffirms its support for Medicaid expansion. All states should fully expand Medicaid eligibility and should not apply financially burdensome premiums or cost-sharing requirements, lock-out periods, benefit cuts, or mandatory work or community engagement policies that have the effect of reducing enrollment among vulnerable individuals. ACP has long-supported the Medicaid program as vital in the effort to ensure that this nation's most vulnerable population has access to health coverage. ACP's advocacy has focused on protecting the Medicaid program, encouraging states to expand their programs, and opposing efforts by federal lawmakers to cut/cap the program, or otherwise imposing mandatory work requirements, premiums and cost-sharing for vulnerable individuals, and benefit cuts.

### **Providing Medicaid Pay Parity for Primary Care Services**

Sec. 206 of the bill reinstates and reauthorizes, for four years, through Sept. 30, 2024, the ACA's increased payments for primary care physicians who treat Medicaid beneficiaries to require that they are paid no less than the Medicare pay rate. Eligible entities include, among others, physicians with a primary specialty designation of family medicine, general internal medicine, pediatric medicine, or obstetrics and gynecology but only if the physician self-attests that the physician is Board certified in family medicine, general internal medicine, pediatric medicine; or obstetrics and gynecology.

**ACP's Position:** ACP has long-standing policy supporting reinstating Medicaid pay parity for primary care services. As noted in a recent [joint letter](#) to Congress on behalf of ACP, the American Academy of Family Physicians, the American Academy of Pediatrics, and others, Medicaid payments for services are significantly lower than Medicare payments for the same services. On average, a clinician treating a Medicaid enrollee is paid about two-thirds of what Medicare pays for the same services and only half of what is paid by private insurance plans. Primary care clinicians commit themselves to a long-term relationship with all their patients — including Medicaid beneficiaries — and provide not only first-contact and preventive services, but also the long-term care for chronic conditions that minimizes hospital admissions and reduces costs to the system. Increasingly inadequate Medicaid payments impede the ability of clinicians and other “providers” to accept more Medicaid patients, particularly among small practices, and threatens the viability of practices serving areas with a higher proportion of Medicaid coverage.

### **Permanently Reauthorizing the Children's' Health Insurance Program (CHIP)**

Sec. 207 of the bill permanently authorizes sufficient funding for CHIP, as it is currently set to expire at the end of fiscal year 2027.

**ACP's Position:** ACP has been a staunch supporter of CHIP over the years and has advocated for a long-term extension of funding for the program. Since its inception in 1997, CHIP, together with Medicaid, has helped to reduce the number of uninsured children by a remarkable 68 percent. CHIP has a proven track record of

providing high-quality, cost-effective coverage for low-income children and pregnant women in working families.

### **Establishing a Fair Drug Pricing Program**

Sec. 301 of the bill requires the Secretary of Health and Human Services (HHS) to establish a Fair Price Negotiation Program to negotiate with drug manufacturers in order to obtain a maximum fair price (MFP) for certain selected drugs. When establishing this program, the Secretary must publish a list of 250 negotiation-eligible drugs, which encompass the 125 covered part D drugs with the greatest net spending, as well as 125 other drugs that represent the greatest net spending in the United States and the U.S. Territories that are branded, single-source drugs that lack generic or biosimilar competition. From this list, the Secretary shall select no fewer than 25 drugs to negotiate in each of the first year of the program, which increases to no fewer than 50 drugs each year beginning in 2024. In addition to the minimum number of selected drugs the Secretary is required to negotiate, the Secretary shall also negotiate with manufacturers of insulin products to establish an MFP for insulin.

**ACP's Position:** ACP policy supports the ability of Medicare to leverage its purchasing power and directly negotiate with manufacturers for drug prices, although we have no policy on applying that same negotiating power to the commercial market and group/individual health insurance plans, as H.R. 1425 would do.

ACP also supports the repeal of the current law, known as the non-interference clause, which strictly prohibits HHS from interfering with negotiations between drug manufacturers and pharmacies and prescription drug plan sponsors. Absent repeal of the non-interference clause, we believe it should be modified to allow for this type of negotiation by the government for high-cost drugs in which Medicare has substantial financial interest as is included in this section of H.R. 1425.

### **CONCLUSION**

ACP appreciate this opportunity to offer feedback on this important legislation and we look forward to working with you to advance these and other important reforms to enhance the ACA. We invite you to consider further recommendations from ACP as outlined in a recent series of position papers entitled, ["Envisioning a Better U.S. Health Care System for All: A Call to Action by the American College of Physicians."](#)

Sincerely,



Jacqueline W. Fincher, MD, MACP  
President