



April 13, 2018

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Room 445-G
Hubert H. Humphrey Building
200 Independence Avenue SW
Washington, DC 20201

Re: Short-Term, Limited-Duration Insurance proposed rule (CMS-9924-P)

Dear Administrator Verma:

The American College of Physicians (ACP) appreciates the opportunity to provide comments regarding the Short-Term, Limited-Duration (STLD) proposed rule. ACP is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 152,000 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.

ACP is opposed to amending the definition of short-term, limited-duration insurance to allow for a maximum duration period of less than 12 months with opportunity to renew. The College is concerned that this will lead to a proliferation of plans that would replace comprehensive coverage and are exempt from the Affordable Care Act's (ACA) requirements on essential health benefit coverage, prohibition on pre-existing condition exclusions, rate restrictions, and others. Additionally, the Departments' proposal could lead to unaffordable premiums and adverse selection in the ACA-compliant insurance market because healthy individuals are more likely to purchase low-cost insurance with paltry benefits, especially since the penalty amount for not having minimum essential coverage will be reduced to \$0 starting in 2019.

Short-term insurance plans are intended to provide temporary insurance during gaps in coverage, such as when a person is between jobs and does not have access to employer-based health insurance. Since they are not required to comply with the ACA's insurance market regulations, they may not include coverage typical of comprehensive, major medical insurance. As noted in the proposed rule these policies "would be unlikely to include all the elements of PPACA-compliant plans, such as preexisting condition exclusion prohibition, coverage of essential health benefits without annual or lifetime dollar limits, preventive care, maternity and prescription drug coverage, rating restrictions, and guaranteed renewability."

ACP policy strongly supports the ACA's requirement that certain health insurance plans cover 10 essential health benefits, including crucial categories like prescription drugs, ambulatory patient services, and mental health and substance use disorder services including behavioral health treatment, the latter category a vital part of our nation's effort to combat the opioid use disorder epidemic. Prior to the ACA many individual market plans did not cover a range of important services: in 2013, 75% of individual market plans did not cover maternity care services, 45% did not cover outpatient substance use disorder services, and 17% did not cover non-preferred brand name prescription drugs (i). The ACA also prohibits individual market plans from varying premiums based on health status and other factors. STLD plans would be able to charge sick individuals exorbitant premiums or deny issuing coverage altogether since they are exempt from the ACA's important and necessary rating and guaranteed issue and renewability protections. Out-of-pocket costs for STLD plans may be excessive in many markets: in Phoenix, AZ, the out-of-pocket cost-sharing limit for a 40-year-old male can be as high as \$30,000 (ii). Further, since STLD plans are not obligated to abide by the medical loss ratio mandate, they offer less value to consumers, with only an average of 67.4% of a premium dollar paid to medical claims in 2016 (iii). State insurance regulators have also logged complaints from enrollees that some insurers misrepresent the STLD plans as comprehensive, ACA-compliant insurance only to deny coverage of a pre-existing condition or rescind coverage once claims are submitted (iv).

ACP is also very concerned that the proposal could destabilize the risk pool if healthy individuals leave (or choose not to enter) the existing individual insurance market to purchase STLD plans. This may result in higher premiums and fewer insurance options for those who remain in the market. While the proposed rule includes an estimate that 100,000 to 200,000 additional individuals would shift from the individual market to STLD insurance in 2019, other reports project that the number may be far higher. The Urban Institute estimates that 4.3 million people would enroll in expanded STLD insurance plans. The report predicts that the combined effect of reducing the individual mandate penalty and expanding the duration of STLD plans would cause ACA-compliant individual market plan premiums to increase by an average of 18.3% in the 45 states (including the District of Columbia) that do not restrict sale of such plans (v). Even more concerning is the estimate that the uninsured rate will increase as a result of the proposal.

If the Departments choose to finalize this proposal, we recommend that the contract or application notice describe in detail which ACA consumer protections may not be covered by the STLD plan and specifically note in 14-point, uppercase type that such coverage "would be unlikely to include all the elements of PPACA-compliant plans, such as preexisting condition exclusion prohibition, coverage of essential health benefits without annual or lifetime dollar limits, preventive care, maternity and prescription drug coverage, rating restrictions, and guaranteed renewability" or similar language. Additionally, we oppose allowing unlimited renewal of STLD plans. Prohibiting unlimited renewals will provide consumers an opportunity to re-evaluate their health insurance options and determine whether they are able to enroll in a subsidized, ACA-compliant qualified health plan that better meets their needs.

We agree that more needs to be done to ensure Americans have access to affordable health insurance. However, expanding the availability of STLD plans is not the way to achieve this goal. We recommend that the Department of Health and Human Services continue to consider and support Section 1332

waivers to fund state-based reinsurance programs to stabilize risk pools and reduce premiums for comprehensive, ACA-compliant coverage.

We appreciate the opportunity to comment on this proposed rule. If you have any questions, please contact Ryan Crowley, Senior Associate, Health Policy at rcrowley@acponline.org.

Sincerely,



Jack Ende, MD, MACP
President
American College of Physicians

ⁱ Claxton G, Pollitz K, Semanskee A and Leavitt L. Would States Eliminate Key Benefits if AHCA Waivers are Enacted? Kaiser Family Foundation. June 14, 2017. Accessed at <https://www.kff.org/health-reform/issue-brief/would-states-eliminate-key-benefits-if-ahca-waivers-are-enacted/>

ⁱⁱ Pollitz K. Understanding Short-Term Limited Duration Health Insurance. Kaiser Family Foundation. February 9, 2018. Accessed at <https://www.kff.org/health-reform/issue-brief/understanding-short-term-limited-duration-health-insurance/>

ⁱⁱⁱ Palanker D, Lucia K, Curran E. New Executive Order Expanding Access to Short-Term Health Plans is Bad for Consumers and the Individual Market. <http://www.commonwealthfund.org/publications/blog/2017/aug/short-term-health-plans>

^{iv} Goe CL. Non-ACA Compliant Plans and the Risk of Market Segmentation: Considerations for State Insurance Regulators. March 2018. http://healthyfuturega.org/ghf_resource/non-aca-compliant-plans-risk-market-segmentation/

^v Blumberg LJ, Buettgens M, Wang R. Updated: The Potential Impact of Short-Term Limited-Duration Policies on Insurance Coverage, Premiums, and Federal Spending. Urban Institute. March 2018. Accessed at https://www.urban.org/sites/default/files/publication/96781/2001727_updated_finalized.pdf