



March 15, 2018

The Honorable Paul Ryan  
Speaker  
United States House of Representatives  
Washington, DC 20515

The Honorable Nancy Pelosi  
Minority Leader  
United States House of Representatives  
Washington, DC 20515

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Charles Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

Dear Speaker Ryan, Minority Leader Pelosi, Majority Leader McConnell and Minority Leader Schumer:

On behalf of the American College of Physicians (ACP), I am writing to express our strong support for a bipartisan legislative agreement to help stabilize the individual insurance market. We ask that you move to the floor of your respective chambers and support enactment—preferably as part of the omnibus funding bill—legislation to stabilize markets by providing federal funding for state reinsurance programs. Congress should act as soon as possible because health insurers are currently determining their plan premiums for the 2019 enrollment year, and without further action by Congress and the states, most markets will experience double-digit increases in premiums.

However, a market stabilization package should not include provisions that would further destabilize markets and weaken patient protections by codifying into statute the administration's ill-advised proposed rule-making to increase the maximum length of short-term, limited-duration insurance policies to one year and to allow sale of association health plans that lack the Affordable Care Act's (ACA) patient protections, both of which would drastically increase premiums, allow sale of insurance that does not cover needed and essential care like prescription drugs, substance use disorder treatment, and chemotherapy; and increase federal expenditures by tens of billions annually. Market stabilization legislation also should not change the ACA's 3:1 age rating by allowing insurers to charge older persons, who are often the most in need of health care, more for their insurance and/or reduce the grace period for premium non-payments, which would cause many Americans to lose their coverage if they are late on a payment for a short period of time.

The American College of Physicians 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.

**Establish options for an effective reinsurance program to stabilize the market:**

Reinsurance can help ensure that patients get to keep the coverage they have while protecting insurers from high costs. Congress should adopt bipartisan legislation to provide federal funding for state reinsurance programs, with sufficient funding to the states for the programs to be effective. While we believe the *Lower Premiums Through Reinsurance Act of 2017*, S. 1835, sponsored by Senators Susan Collins (R-ME) and Bill Nelson (D-FL) is a good starting point, we urge that Congress provide adequate funding to offset most of the expected premium increases from ill-advised policies that are driving up rates in the individual market. One non-partisan study [estimates](#) that a “generous” reinsurance fund, enough to reduce age-specific premiums by 19 percent would cost \$34 billion in FY 2020, while a standard reinsurance fund, reducing age-specific premiums by four percent would cost \$6.2 billion. However, they also found that the cost to federal taxpayers can be reduced by allowing states to charge a per-enrollee fee on all group, individual, and self-insured health plan enrollees, resulting in an additional cost to taxpayers of between \$3 billion (standard) and \$18.8 billion (generous).

Media reports indicate that a proposal put forth by Sen. Lamar Alexander (R-TN) and Sen. Patty Murray (D-WA), along with Sen. Susan Collins (R-ME), would provide \$10 billion a year for 2019, 2020, and 2021 to fund a state-based reinsurance program. Also according to reports, the Congressional Budget Office has preliminarily projected that the program could reduce premiums by an average of 10 percent in 2019 and an average of 20 percent in 2020 and 2021. Additionally, the Oliver Wyman consulting firm [estimates](#) that the reinsurance program could be 40% lower than what they would have been without Congressional action. Given that premiums are expected to increase by double-digits, we believe that funding for the more generous reinsurance pool will be needed. Sufficiently funded reinsurance programs can stabilize markets by reimbursing insurers for the higher costs incurred by them if they end up enrolling persons with higher average health care costs than what was initially anticipated, thereby encouraging insurer participation especially in underserved regions.

In addition, stabilization legislation should not open the door for states to use the reinsurance funds to establish high-risk pools. We know from experience that high-risk pools are no substitute for the ACA’s ban on insurers charging more to patients with pre-existing conditions. Prior to the ACA, according to the [Kaiser Family Foundation](#), many states that had high-risk pools typically charged premiums above standard nonmarket rates, had pre-existing condition exclusions, lifetime and annual limits, and high deductibles; many states also limited enrollment, directly or indirectly, to limit costs.

**ACP urges caution by Congress to ensure that any legislative action regarding Cost-Sharing Reduction (CSR) payments not raise out-of-pockets cost for lower-income patients:**

While ACP has previously [strongly supported](#) the continuation of funding for CSR payments to insurers, included in [bipartisan market stabilization legislation](#) under consideration last year, the individual insurance market has adjusted, with the effect of increasing the tax credit premium subsidies for benchmark silver plans and lowering the premium costs for the lower-income individuals who receive those credits. Restoring CSRs as they were previously would actually substantially increase costs for lower-income individuals receiving tax credits. Accordingly, ACP urges caution and careful consideration by Congress to not take any legislative action regarding CSRs that would raise out-of-pockets cost for lower-income patients. If Congress determines to restore CSR payments, any savings

to the federal government should be directly applied to increasing the tax credits of lower-income individuals who are vulnerable to increased out-of-pocket costs.

In addition to ACP's support for robust federal reinsurance assistance to the states and CSR payment restoration if lower-income patients are held harmless from increased costs, ACP strongly opposes any of the following measures in a market stabilization package:

- **Changing short-term plan duration:** A new ACA rule proposed by the administration would allow insurance companies to offer short-term health plans that last almost a full year (364 days) instead of the current 90 days. Sen. John Barrasso (R-WY) has introduced the *Improving Choices in Health Care Coverage Act*, S. 2507, which would codify the administration proposal and also allow for guaranteed renewal of the short-term plan for at least another full year. This proposal, or similar legislation, should not be included in market stabilization legislation.

By permitting sale of plans without Essential Health Benefits (EHBs) currently required of all plans sold in the individual insurance market, persons buying such plans would be at risk of not having coverage for needed care when they get sick. Before the ACA, insurance plans sold in the individual insurance market in all but five states typically maintained lists of so-called "declinable" pre-existing medical conditions—including asthma, diabetes, arthritis, obesity, stroke, or pregnancy, or having been diagnosed with cancer in the past 10 years. [Prior](#) to the ACA's protections, 62% of individual market enrollees did *not* have coverage of maternity services, 34% did *not* have substance use disorder services, 18% did *not* have mental health services and 9% did *not* have coverage for prescription drugs.

Even though the ACA's guaranteed issue and community rating protections for people with pre-existing conditions would remain for plans on the exchanges, insurers would charge more for these plans because [up to 2.1 million](#) younger and/or healthier individuals would move to the cheaper, less robust non-ACA compliant short-term plans. With the siphoning off of younger and healthier individuals, the result would be that many patients with pre-existing conditions would be forced to purchase the ACA-compliant plans that cost them up to [18 percent more](#) for the care that they need. While patients receiving premium tax credits would largely be insulated from dramatic price increases, those individuals ineligible for premium subsidies would be forced to pay the full cost of comprehensive coverage.

- **Association Health Plans:** In January 2018, the administration put forth for comment a proposed rule for association health plans (AHP). In ACP's [view](#), this proposed rule would allow small businesses and the self-employed to join health plans governed by large group market rules, circumventing the individual and small group health insurance market consumer protections established by the ACA. Any cost-savings would likely result from the availability of less comprehensive coverage with fewer benefits and loose rating restrictions that favor healthy individuals. If the AHP is exempt from insurance rules, such as the benefit mandates or the rating regulations, non-AHP small group and individual market plans could be vulnerable to adverse selection problems resulting in higher premiums and less stability. *Therefore, ACP urges maintaining current law federal and state consumer protections, benefit mandates, provider*

*network adequacy requirements, and rating rules to ensure that AHPs are comprehensive, financially viable and do not erode the existing individual and small group insurance markets on which millions rely.*

Not only would putting the two ill-advised regulations into statute undermine essential patient protections, it would greatly increase federal spending. According to a new non-partisan analysis, federal government [spending](#) in 2019 “will be an estimated 9.3 percent higher than under prior law, owing to the combined effect of expanding short-term limited-duration policies, eliminating the individual-mandate penalties, and other recent policy changes.”

- **Age-Rating change:** The ACA established a 3:1 limit on the age rating of health insurance premiums, meaning that an older individual cannot be charged more than three times the premium amount of a younger adult. We understand that consideration is being given to allowing insurers to use a 5:1 ratio in establishing age-based premiums in the market stabilization legislation. Proposals that allow insurers to charge older patients more than under the ACA would result in higher costs for those individuals, many of whom are most in need of care, and accordingly, should not be included in the legislation.
- **Shortening ACA grace period for non-payment of premium:** *ACP is greatly concerned about any funding offset that would change the three-month grace period before an ACA market place enrollee's coverage is terminated for non-payment of premium.* We understand that consideration is being given to applying such a change to either a state's grace period requirement law, or to only a one-month grace period if the state doesn't have its own grace period requirement, in order to achieve budget savings. Such budget savings would result from people losing their coverage, and the federal premium subsidies associated with it. A recent [study](#) confirms that the current-law three month grace period is appropriate and needed and that there is no evidence that enrollees are abusing this grace period.

ACP strongly believes that regulatory and legislative changes that will raise premiums, cause millions to lose coverage for essential health care, and increase federal spending by billions of dollars do not belong in a market stabilization package.

In conclusion, the College strongly believes in the *first, do no harm* principle. A bipartisan market stabilization package with sufficiently funded reinsurance would be an important first step to ensuring that millions of Americans are not subjected to double-digit premium increases and loss of insurer competition in their markets, due in part to previous legislation enacted by this Congress and actions taken or proposed by the administration. The College welcomes the opportunity to share our ideas for bipartisan solutions for improving current law that would help make healthcare better, more accessible, and more affordable for patients.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Ende", with a long, sweeping underline.

Jack Ende, MD, MACP  
President

Cc: Members of the United States House of Representatives; United States Senate.