



November 12, 2024

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; HHS Notice of Benefit and Payment Parameters for 2026; and Basic Health Program**

Dear Secretary Becerra,

The American College of Physicians (ACP) appreciates the opportunity to comment on the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2026; and Basic Health Program proposed rule. The College is the largest medical specialty organization and the second largest physician membership society in the United States. ACP members include 161,000 internal medicine physicians, related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge, clinical expertise, and compassion to the preventive, diagnostic, and therapeutic care of adults across the spectrum from health to complex illness.

Ability of States To Permit Agents and Brokers and Web-Brokers To Assist Qualified Individuals, Qualified Employers, or Qualified Employees Enrolling in QHPs (§ 155.220)

ACP supports interventions to prevent the use of fraudulent, deceptive, and high-pressure sales tactics to enroll patients in health insurance plans, and to penalize those individuals and organizations which promote such activity. ACP is concerned about reports of unscrupulous agents and brokers enrolling or switching patients into new Exchange-based plans without their knowledge or approval (1). Fraudulent plan switching may interrupt care continuity and expose patients to higher out-of-pocket costs if the plan doesn't provide the expected coverage or access to preferred physicians. It may also undermine trust in the integrity of the Exchanges.

We support CMS' efforts to address fraudulent plan enrollment and switching activity, including the proposal to amend 155.220(k)(3) to suspend an agent's or broker's ability to transact with the Exchange if they engage in "misconduct or noncompliant behavior that impacts Exchange consumers, operations, and systems." In addition to the new proposals, we encourage the

agency to work with state insurance commissioners and the National Association of Insurance Commissioners to devise additional ways to prevent fraudulent enrollments.

#### Establishment of Optional Fixed-Dollar Premium Payment Threshold and Total Premium Threshold (§ 155.400(g))

ACP is concerned that more than 80,000 patients had their health coverage terminated in the 2023 Plan Year for failing to pay the enrollee-responsible portion of the premium of \$5 or less. Many of the patients subject to small positive premiums have incomes at or below 150% of the federal poverty level (2). The proposed changes at § 155.400(g) to provide issuers the option of adopting a fixed-dollar premium payment threshold will allow patients to keep their coverage if they owe a low-dollar premium, potentially promoting continued enrollment and care continuity as well as avoiding uncertainty associated with grace periods.

#### Standardized Plan Options (§ 156.201)

As health insurance products become more complex, ACP supports efforts to enhance health insurance literacy and promote better, more accessible, and objective information about cost-sharing requirements and health insurance plan design. Standardized plans, particularly those that incorporate value-based insurance design concepts, may be a way to encourage high value care and make the health insurance shopping experience more patient friendly. ACP supports the proposal to require standardized plans to be meaningfully different to prevent choice paralysis (3,4) and make it easier for patients to find a plan that meets their financial and health care needs.

#### Silver Loading (§ 156.80)

In 2019, ACP recommended the federal government allow the practice of “silver loading,” where insurers raise silver-tier plan premiums to an amount equal to what they would have received if cost-sharing reduction reimbursements were distributed, resulting in an increase in premium tax credit amounts (5). Since silver loading has been an effective solution to addressing inaction regarding the appropriation of cost-sharing reductions, ACP recommends that silver loading be codified to preserve it as a policy option.

Thank you for considering our comments. Please contact Ryan Crowley, Manager, Health Policy, at [rcrowley@acponline.org](mailto:rcrowley@acponline.org) if you have any questions.

Sincerely,



Isaac O. Opole, MBChB, PhD, MACP  
President  
American College of Physicians

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<sup>1</sup> Appleby J. ACA Plans Are Being Switched Without Enrollees' OK. KFF Health News. 2 April 2024. Accessed at <https://kffhealthnews.org/news/article/aca-obamacare-plans-switched-without-enrollee-permission-investigation/>

<sup>2</sup> Fiedler M. Eliminating small Marketplace premiums could meaningfully increase insurance coverage. Brookings. 29 June 2022. Accessed at <https://www.brookings.edu/articles/eliminating-small-marketplace-premiums-could-meaningfully-increase-insurance-coverage/>

<sup>3</sup> Quincy L and Silas J. The Evidence is Clear: Too Many Health Insurance Choices Can Impair, Not Help, Consumer Decision Making. Consumers Union. November 2012. Accessed at [https://advocacy.consumerreports.org/wp-content/uploads/2012/11/Too\\_Much\\_Choice\\_Nov\\_2012.pdf](https://advocacy.consumerreports.org/wp-content/uploads/2012/11/Too_Much_Choice_Nov_2012.pdf)

<sup>4</sup> Levitt L, Altman D. Complexity in the US Health Care System Is the Enemy of Access and Affordability. *JAMA Health Forum*. 2023;4(10):e234430. doi:10.1001/jamahealthforum.2023.4430

<sup>5</sup> Crowley RA, Bornstein SS; Health and Public Policy Committee of the American College of Physicians. Improving the Patient Protection and Affordable Care Act's Insurance Coverage Provisions: A Position Paper From the American College of Physicians. *Ann Intern Med*. 2019 May 7;170(9):651-653. doi: 10.7326/M18-3401. Epub 2019 Apr 16. PMID: 30986852.