



April 23, 2018

The Honorable Alex Azar
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Re: Short-Term, Limited-Duration Insurance Plan Proposed Rule

Dear Secretary Azar,

The **I Am Essential** coalition of patient and community organizations, representing millions of patients and their families, appreciates the opportunity to submit comments on the [short-term, limited-duration insurance proposed rule](#) (short-term plans) to the Department of Health and Human Services. These comments, supported by 97 patient groups, express serious concern regarding the reversal of previously established guardrails for enrollment in short-term plans and the impact it will have on the health of individuals, in particular those living with chronic and serious conditions. This rule, if finalized, will have a crippling effect on individuals' healthcare and long-lasting implications on the stability of the health insurance market.

Proposed Rule Redefines "Short Term" that is No Longer "Short Term"

The proposed rule would extend enrollment in short-term plans to 364 days, well beyond the previously restricted three-month duration maximum and would allow beneficiaries to renew their contract. Short-term plans were purposely limited, serving primarily as a stop-gap measure for insurance coverage in times of transition; these plans are not designed to support comprehensive access to healthcare. By relaxing duration restrictions, consumers may opt to utilize these plans as an alternative to Affordable Care Act (ACA)-compliant health plans, not knowing the risk they take on as these plans do not meet minimum essential coverage and utilize substandard health benefit design that can be harmful to beneficiaries' health.

Furthermore, the proposed rule outlines changes to existing regulations allowing short-term plans to renew a consumer's coverage. Renewability won't necessarily guard a consumer against being charged a higher premium after receiving a cancer, HIV, epilepsy, or other diagnosis. As health status is not static, short-term plans are not a viable option for health insurance for individuals with previously diagnosed conditions or even for those with a clean bill of health at the time coverage begins.

Short Term Plans Do Not Provide Critical Patient Protections and Health Benefits

The guidelines and regulations established by the ACA to protect patients would not apply to short-term health plans, exposing beneficiaries to a myriad of harmful practices by health plans. Despite the

intention of the executive order to expand consumer choice, short-term plans would restrict access to healthcare.

Mandated in statute, ACA plans must cover a comprehensive set of essential health benefits (EHBs) which ensures access to benefits like prescription medications that people living with chronic conditions depend on to maintain their quality of life. Because they do not have to cover EHBs, the quality of the plans sold under the short-term umbrella will fall far short of what consumers would expect a health insurance plan to cover. Patients may be surprised when they experience severely restricted access or complete exclusion of prescription drug coverage, mental health and substance abuse services, or hospital emergency coverage when they need them. Even if the plan indicates it covers a certain essential benefit, the breadth of that service can fall short of what patients need and plans can place artificially low limits on the number of visits or prescription medications. Plans would not have to follow existing regulations that require their formularies to cover at least the same number of drugs in each state's benchmark plan, consider newly approved medications, utilize Pharmacy and Therapeutics Committees for formulary review, or follow prevailing treatment guidelines. Failing to cover basic benefits one would expect will leave beneficiaries paying monthly premiums for substandard coverage without any guarantee of protection and access to health care.

Additionally, under short term plans, beneficiaries could be subject to lifetime dollar limits or dollar limits on certain benefits, something that was outlawed by the ACA. Imposing annual and lifetime dollar limits would place an undue burden on patients who become ill while being covered by a short-term plan.

Before the passage of the ACA, patients with serious and chronic conditions would be subject to insurer discrimination based on pre-existing conditions; being refused coverage or charged more because of a health condition. Barring federal protections, short-term plans will allow health insurance plans to again discriminate based on health status. Not only can short-term plans cherry pick beneficiaries by choosing not to cover an individual based on a pre-existing condition, if an individual receives a diagnosis while covered the plan can conduct a rigorous review of their medical history to determine if there was indication they received medical advice, previous diagnosis, or recommended treatment which would therefore conclude a condition was pre-existing and grounds for rescission of coverage.

The proposed rule states that short-term plans would be required to be sold with a disclaimer stating that the plan does not qualify as health coverage, or minimum essential coverage, and does not satisfy the coverage requirements of the ACA. However, since short-term plans give the illusion of coverage, and will carry lower premiums than ACA compliant plans, people will most likely gravitate to them, particularly if marketing methods do not fully communicate the limitations and risks.

Additionally, under these plans a beneficiary could find their payments made toward the deductible not counting towards the maximum out-of-pocket costs, high cost-sharing on preventive services, and being on the hook for one hundred percent of uncovered service or treatment costs. All of these negative practices of the past should not outweigh the appeal of a lower premium. Short-term plans could ultimately cost patients their health as they choose between financial hardship and seeking care.

Proposed Rule Undermines Stability of Health Insurance Market

The proposed harmful policy changes will impact not just individuals who experience restricted benefits when they suddenly need them, but the stability of the Marketplace and the greater healthcare system.

Short-term plans will undoubtedly deplete the ACA-compliant market of younger, healthier individuals, essentially creating two risk pools; the high-risk, ACA-compliant market, and a pool of healthier people in short-term plans. The high-risk pool premiums will skyrocket as insurers attempt to counter the high costs for their more care-dependent beneficiaries.

The additional strain on the individual market will mean insurers will be less incentivized to participate in the ACA Marketplace as they weigh the risk of covering a pool of individuals who are more care-dependent, and therefore, have higher medical claims. If short-term plans were to multiply, it would create more pressure on insurers to pull out of the ACA market and leave consumers with fewer choices, a direct conflict with the intention of the President's executive order to provide greater choices. Furthermore, with less competition in the ACA market, insurers will have more ability to set prices and benefit designs that will serve their own interest and not those of beneficiaries.

Expanding access to short-term plans will have a negative impact on the total number of people insured; Escalating premiums, the elimination of the individual mandate, and the expansion of short-term plans, taken together, will add to the uninsured rate by an estimated of 6.4 million, according to a report by the Urban Institute.¹ A high uninsured, or underinsured, population will certainly burden our hospitals, providers, and health systems as uncompensated care rises. It will also endanger peoples' lives. The combined effects of the association health plan rule, the elimination of the individual mandate, reductions in Navigator funding, and the short-term plan rule will work to destabilize the ACA Marketplace, with patients bearing the brunt of the impact.

If finalized, the proposed rule will do more harm than good for both those who purchase a short-term plan and people with complex chronic conditions who rely on the patient protections created by the ACA.

Commitment to Quality Healthcare

If the Department of Health and Human Services is committed to providing affordable and quality health care through innovative and sustainable solutions, then you must not finalize the rule as proposed. **I Am Essential** strongly urges the Department to consider the implications of the short-term plan proposed rule and patients' health and well-being. We believe that redefining short-term plans, as proposed, would take away comprehensive health benefits and patient protections, increase healthcare costs on individuals and the healthcare system, and put greater strain on the individual health insurance market.

Should you have any questions or comments, please contact: Carl Schmid, Deputy Executive Director, The AIDS Institute, cschmid@theaidsinstitute.org; Beatriz Duque Long, Senior Director, Government Relations, Epilepsy Foundation, bduquelong@efa.org; or Andrew Sperling, Director of Federal Legislative Advocacy, National Alliance on Mental Illness, asperling@nami.org. Thank you very much.

Sincerely,

¹ Blumberg, L., Buettgens, M., Wang, R. (February 2018) The Potential Impact of Short-term Limited-Duration Policies on Insurance Coverage, Premiums, and Federal Spending. *Urban Institute*.

Action Wellness
 ADAP Advocacy Association
 Adult Congenital Heart Association
 AIDS Action Baltimore
 AIDS Alliance for Women, Infants, Children,
 Youth & Families
 The AIDS Institute
 Alliance for Aging Research
 Alpha-1 Foundation
 American Academy of HIV Medicine
 American Association on Health and Disability
 American Autoimmune Related Diseases
 Association
 American Behcet's Disease Association (ABDA)
 American Society for Metabolic and Bariatric
 Surgery
 Arthritis Foundation
 Asthma and Allergy Foundation of America
 Bailey House, Inc.
 Bronx Lebanon Family Medicine
 California Hepatitis C Task Force
 Cancer Support Community
 Caregiver Action Network
 Caregiver Voices United
 Chronic Disease Coalition
 Coalition on Positive Health Empowerment
 Community Access National Network (CANN)
 Consumers for Quality Care
 Cutaneous Lymphoma Foundation
 Dab the AIDS Bear Project
 Depression and Bipolar Support Alliance
 Dialysis Patient Citizens
 Easter Seals Massachusetts
 EFI
 Epilepsy Foundation Central & South Texas
 Epilepsy Foundation Greater Dayton Region
 Epilepsy Foundation Iowa
 Epilepsy Foundation New England
 Epilepsy Foundation Northwest
 Epilepsy Foundation of Arizona
 Epilepsy Foundation of Connecticut
 Epilepsy Foundation of Greater Chicago
 Epilepsy Foundation of Greater Southern Illinois
 Epilepsy Foundation of Hawaii
 Epilepsy Foundation of Indiana
 Epilepsy Foundation of Michigan
 Epilepsy Foundation of Minnesota
 Epilepsy Foundation of Missouri & Kansas
 Epilepsy Foundation of Nevada
 Epilepsy Foundation of Oklahoma
 Epilepsy Foundation of Utah
 Epilepsy Foundation of Vermont
 Epilepsy Foundation-Alabama
 Georgia Rural Urban Summit
 Global Healthy Living Foundation
 Global Justice Institute
 Hemophilia Federation of America
 Hepatitis C Allies of Philadelphia (HepCAP)
 Human Rights Campaign
 Hypertrophic Cardiomyopathy Association
 International Association of Hepatitis Task
 Forces
 International Foundation for Autoimmune &
 Autoinflammatory Arthritis
 International Pain Foundation
 International Pemphigus and Pemphigoid
 Foundation
 International WAGR Syndrome Association
 Lakeshore Foundation
 Latino Commission on AIDS and Hispanic Health
 Network
 Legal Action Center
 Lupus and Allied Diseases Association
 Lymphoma Research Foundation
 Men's Health Network
 Mental Health America
 NAMI Pierce County
 NASTAD
 National Alliance on Mental Illness
 National Association of Nutrition and Aging
 Services Programs (NANASP)
 National Consumers League
 National Council for Behavioral Health
 National Hemophilia Foundation
 National Kidney Foundation
 National Minority Quality Forum
 National Multiple Sclerosis Society
 National Organization for Rare Disorders
 (NORD)
 National Patient Advocate Foundation
 National Psoriasis Foundation
 National Stroke Association
 National Women's Law Center
 New Jersey Association of Mental Health and
 Addiction Agencies, Inc.
 Obesity Action Coalition

Obesity Medicine Association
Patient Access Alliance
Prevent Cancer Foundation
Susan G. Komen
The Epilepsy Foundation
The Hepatitis C Mentor and Support Group-
HMSG

The Obesity Society
The Veterans Health Council
US Pain Foundation
Vasculitis Foundation
Vietnam Veterans of America
Virginia Hemophilia Foundation

cc: Seema Verma, Administrator, Centers for Medicare and Medicaid Services