



April 20, 2018

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-9924-P
P.O. Box 8010
Baltimore, MD 21244-8010.

Re: Proposed Short-Term, Limited-Duration Insurance rule (file code CMS-9924-P)

To Whom It May Concern:

Thank you for the opportunity to comment on the proposed rule on Short-Term, Limited-Duration Insurance. The Wisconsin Board for People with Developmental Disabilities (BPDD) is concerned that this proposed rule will negatively impact the risk pool of the Affordable Care Act (ACA) marketplace exchanges and will lead to a disproportionate impact for consumers with disabilities and other pre-existing conditions.

Consumers with disabilities, pre-existing conditions, chronic health care conditions, and those with family members with disabilities are ACA marketplace consumers. These populations of people tend to use health care services and spend more on health care because of their conditions. Currently, the ACA requires, with limited exceptions, that health insurance plans include coverage of ten essential health benefits¹ and consumer protections², which are critical to people with disabilities and their families.

Under current law, Short-Term plans can reject people with pre-existing medical conditions or charge higher prices for people with pre-existing conditions and are not required to cover the ten essential health benefits required under the ACA. These plans also do not have to be compliant with ACA consumer protection requirements. People with disabilities, chronic health conditions, and families with a disabled member typically do not access Short-Term plans because they are: 1) declared ineligible to purchase Short-Term plans by insurers 2) unable to obtain plans because of higher, and prohibitively expensive premiums, co-insurance, co-pays, deductibles 3) unable to obtain plans because they do not offer the coverage individual's need.

¹ Essential Health Benefits include: ambulatory patient services (outpatient care); Emergency services; Hospitalization (inpatient care); Maternity and newborn care; Mental health and substance use disorder services, including behavioral health treatment; Prescription drugs; Rehabilitative and habilitative services and devices; Laboratory services; Preventive and wellness services and chronic disease management; Pediatric services, including oral and vision care.

² Consumer protections included in the ACA that are particularly beneficial to people with disabilities, people with intermittent or progressive health conditions, and their families include: guarantee people with pre-existing conditions can be insured; prohibitions against charging higher premiums based on health status; prohibitions against denying coverage of certain medical conditions; prohibitions against denying coverage of certain medications; no annual or lifetime limit caps on health care cost coverage; therapy coverage assurances for children with autism and people with degenerative diseases who need habilitative care to gain new or maintain abilities; requirements for mental health and substance abuse disorder services including behavioral health treatment, and critical prescription drug coverage.

A 2016 regulation limited Short-Term coverage to a period of less than three months. This proposed rule would quadruple the maximum coverage period and allow people to reapply, if not renew, Short-Term policies at the end of the year. It is not clear if people could reapply or renew policies in perpetuity (unless the insurer chooses not to renew an individual's policy).

The ability for Short-Term plans to offer lower premiums in exchange for fewer covered benefits is projected to siphon younger, healthier individuals away from ACA compliant marketplace plans. This will lead to exponentially increasing costs for people with disabilities and chronic conditions who must remain in ACA regulated markets to obtain the care they need³. BPDD's concern about the effect extending Short-Term plans will have on the ACA-compliant market has been raised by insurers, consumer advocates, and federal regulators⁴.

We find it likely that this proposed rule will result in:

- Short-Term plans offering less or no coverage in many of the essential health benefit categories required by the ACA in exchange for lower premiums;
- Plan designs that allow and even incentivize younger, healthier individuals to purchase non-ACA compliant coverage, leading to higher costs for people with disabilities in ACA regulated markets;
- Plan designs that exclude coverage for pre-existing conditions that actively discourage those with health care needs from applying.
- Plan designs that charge higher premiums based on health status, impose annual or lifetime coverage limits, and require higher out-of-pocket cost sharing than the maximums allowable under the ACA that actively discourage those with health care needs from applying.
- A pool of consumers staying in Short-Term plans for much longer periods of time⁵, potentially years, until changes in health status move them into more comprehensive coverage.
- Short Term plan consumers suffering acute health emergencies, debilitating injuries that lead to permanent disabilities, or the onset of chronic conditions facing financial hardship until they can enroll in an ACA compliant plan that provides the coverage they need.
- Serious implications for the health of the overall ACA market risk pool⁶, and higher premiums for people with disabilities and other pre-existing conditions that must remain in ACA compliant plans to meet their health care needs.

³ A March 2018 Urban Institute analysis found that short-term health plans are projected to remove 4.3 million people from the ACA compliant marketplace; the same study projected an additional 6.4 million people would choose to go uninsured by 2019. The combined impact of the increasing uninsured population and people moving to just the short-term insurance market is projected to result in an 18.3% increase in ACA compliance insurance premiums in 2019. <https://www.urban.org/research/publication/updated-potential-impact-short-term-limited-duration-policies-insurance-coverage-premiums-and-federal-spending>

⁴ <https://www.healthaffairs.org/doi/10.1377/hblog20180220.69087/full/>

⁵ The length a Short-Term plan is increased to almost a full year under the proposal and appears to allow consumers to annually reapply (if not renew) short-term plans in perpetuity.

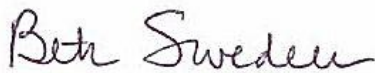
⁶ Concerns about these implications have been raised by the American Academy of Actuaries and in a recent joint letter from the Blue Cross Blue Shield Association (BCBSA), America's Health Insurance Plans (AHIP), Families USA, the American Heart Association, and the American Cancer Society Cancer Action Network, among other stakeholders. <https://www.healthaffairs.org/doi/10.1377/hblog20180220.69087/full/>

Taken together, the cumulative effect of the proposed rule on Short-Term health insurance, changes to Association Health Plan (AHP) regulation⁷, and the repeal of the individual mandate will exponentially increase premiums⁸ for ACA-compliant marketplace plans and weaken the overall marketplace risk pool.

BPDD is charged under the federal Developmental Disabilities Assistance and Bill of Rights Act with advocacy, capacity building, and systems change to improve self-determination, independence, productivity, and integration and inclusion in all facets of community life for people with developmental disabilities.

Our role is to seek continuous improvement across all systems—education, transportation, health care, employment, etc.—that touch the lives of people with disabilities. Our work requires us to have a long-term vision of public policy that not only sees current systems as they are, but how these systems could be made better for current and future generations of people with disabilities.

Thank you for your consideration,

A handwritten signature in dark ink that reads "Beth Swedeen". The signature is fluid and cursive, with the first name "Beth" and last name "Swedeen" clearly legible.

Beth Swedeen, Executive Director
Wisconsin Board for People with Developmental Disabilities

⁷ A February 2018 Avalere study projected—using a Moderate scenario—that changes to regulation of Association Health Plans (AHPs) would prompt 3.2 million people to leave ACA compliant marketplace plans for cheaper and lower coverage AHPs by 2022, resulting in a 3.5% premium increase for individuals in marketplace plans, with an additional 130,000 estimated to lose health care coverage altogether.

<http://avalere.com/expertise/managed-care/insights/association-health-plans-projected-to-enroll-3.2m-individuals> Note that the analysis of a High scenario would result in 4.3 million people leaving the ACA marketplace for AHPs and a 4% increase in premiums.

⁸ The Congressional Budget Office estimated that the repeal of the individual mandate would increase the number of uninsured people by 4 million in 2019 and 13 million in 2027, and that it would be healthier lower cost consumers who would be less likely to obtain insurance, thereby removing themselves from the ACA risk pool. <https://www.cbo.gov/publication/53300>