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**Association of
American Medical Colleges**
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April 3, 2023

Ms. Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
ATTN: CMS-9903-P
7500 Security Boulevard
Baltimore, MD 21244

RE: Coverage of Certain Preventive Services Under the Affordable Care Act (CMS-9903-P)

Dear Administrator Brooks-LaSure:

The Association of American Medical Colleges (AAMC or the Association) welcomes the opportunity to comment on the proposed rule entitled, “Coverage of Certain Preventive Services Under the Affordable Care Act,” 88 Fed. Reg. 7236 (February 2, 2023), issued by the Centers for Medicare & Medicaid Services (CMS or the Agency) and the Departments of Health and Human Services, Labor, and Treasury.

The AAMC is a nonprofit association dedicated to improving the health of people everywhere through medical education, health care, medical research, and community collaborations. Its members are all 157 U.S. medical schools accredited by the Liaison Committee on Medical Education; 13 accredited Canadian medical schools; approximately 400 teaching hospitals and health systems, including Department of Veterans Affairs medical centers; and more than 70 academic societies. Through these institutions and organizations, the AAMC leads and serves America’s medical schools and teaching hospitals and the millions of individuals across academic medicine, including more than 193,000 full-time faculty members, 96,000 medical students, 153,000 resident physicians, and 60,000 graduate students and postdoctoral researchers in the biomedical sciences. Following a 2022 merger, the Alliance of Academic Health Centers and the Alliance of Academic Health Centers International broadened the AAMC’s U.S. membership and expanded its reach to international academic health centers.

Part of the Affordable Care Act’s (ACA’s) goal is to offer comprehensive health care coverage for all Americans by requiring coverage for certain items and services, which includes coverage for preventive services at no cost to consumers. By setting a standard of required benefits, consumers are assured of a uniform level of coverage among health plans. Further, the requirement for insurers to provide preventive services at no cost encourages consumers to seek out vital preventive services, such as screening for cancer – breast, colorectal, cervical – as well as screenings for heart disease and diabetes, to name a few. Access to these screenings is critical to maintaining a healthy population.

The requirement for certain group¹ or individual health insurance plans to cover certain preventive care includes women’s preventive health services as outlined in the Health Resources and Services’ (HRSA’s) comprehensive guidelines. (p. 7237). However, as the proposed rule lays out, there have been numerous

¹ Health insurance plans that were not in existence or purchased on or before March 23, 2010, as defined by Sec. 1241(e) of the Affordable Care Act.

legal challenges to this requirement, as well as the broader requirement for coverage of preventive services. The AAMC, along with other leading medical organizations, has expressed concern that successful legal challenges to these requirements could jeopardize coverage of preventive health services for Americans with private insurance and have a serious impact on the health of many individuals.² **The AAMC supports efforts to ensure coverage of and access to preventive services inclusive of women’s preventive services.**

Federal regulations allow an exemption to coverage of contraceptive services for entities and individuals with religious objections. Regulations also provide an optional accommodation for objecting entities to remove themselves from providing contraceptive coverage while ensuring individuals enrolled in their plans can access such services at no additional cost. As noted in the proposed rule, this accommodation was “designed so that these entities were not required to contact, arrange, pay, or provide a referral for contraceptive coverage” in line with their religious objection. (p. 7242). This accommodation is entirely voluntary, resulting in many individuals covered by objecting entities unable to access contraceptive benefits without cost sharing as guaranteed by the ACA.³

This proposed rule would create an “individual contraceptive arrangement” that would provide coverage for contraceptive coverage for individuals enrolled in group health plans or health insurance coverage through an objecting entity that claims the religious exemption without voluntarily using the accommodation process. Under the arrangement, individuals would be able to have access, at no cost, to all contraceptive services their plan would otherwise be required to cover, absent the exemption. (p. 7252). A provider furnishing the contraceptive services under this arrangement would do so outside of the patient’s insurance coverage and would not impose any cost sharing or collect any reimbursement from the patient. Participation in an individual contraceptive arrangement would be voluntary for the provider. (p. 7253). The provider would enter into an agreement with a participating issuer of a qualified health plan (QHP) and would be permitted to seek reimbursement from that issuer for the services provided. The provider must have a signed agreement with the QHP issuer defining the costs of providing contraceptive services to women covered under these objecting plans. **The AAMC supports proposals that continue to provide access to these critical preventive services for individuals whose insurance plan does not provide coverage. Further, we support allowing providers to directly contract with QHP issuers to seek reimbursement for these services.**

However, we call upon the Departments to require objecting entities and QHP issuers to better inform individuals and providers of the option to engage in an individual contraceptive arrangement. As the proposed rule notes, the lack of coverage for contraceptive services under employer-sponsored plans disproportionately impacts low-income women. (p. 7241) Women must then rely on safety net clinics to access these services because of lack of insurance coverage. (p. 7241). The proposed rule acknowledges that the proposed arrangement “would require some additional action by the affected women and could require them to obtain contraceptive care from providers other than those whom they typically receive women’s health care.” (p. 7254). Providing patients and providers with information on the individual contraceptive arrangement could improve patients’ access to seamless care with their existing providers.

² <https://www.aamc.org/advocacy-policy/washington-highlights/aamc-signs-joint-statement-lawsuit-regarding-access-preventive-care>

³ The proposed rule notes that due to a lack of data on the number of entities that have claimed a religious exemption and do not elect the voluntary accommodation, resulting in the inability “to develop a precise estimate of the number of eligible individuals who might participate in the individual contraceptive arrangement.” (p. 7264)

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CONCLUSION

Thank you for the opportunity to comment on this proposed rule. We would be happy to work with CMS and the other Departments on any of the issues discussed or other topics that involve the academic community. If you have questions regarding our comments, please feel free to contact Mary Mullaney (mmullaney@aamc.org) and Phoebe Ramsey (pramsey@aamc.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Jaffery', with a stylized flourish at the end.

Jonathan Jaffery, M.D., M.S., M.M.M., F.A.C.P.
Chief, Health Care Affairs

cc: David Skorton, M.D., AAMC President and Chief Executive Officer
Ivy Baer, JD, MPH, Senior Director and Regulatory Counsel