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Association of
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August 2, 2023

Ms. Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9904-P
P.O. Box 8010
Baltimore, MD 21244-8010

Re: Short-Term, Limited-Duration Insurance; Independent, Noncoordinated Excepted Benefits Coverage; Level-Funded Plan Arrangements; and Tax Treatment of Certain Accident and Health Insurance (CMS-9904-P)

Dear Administrator Brooks-LaSure:

The Association of American Medical Colleges (AAMC or the Association) welcomes this opportunity to comment on the proposed rule entitled “Short-Term, Limited-Duration Insurance; Independent, Noncoordinated Excepted Benefits Coverage; Level-Funded Plan Arrangements; and Tax Treatment of Certain Accident and Health Insurance,” 88 *Fed. Reg.* 44596 (July 12, 2023), issued by the Departments of Health and Human Services, Labor, and the Treasury (the Departments).

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.

The AAMC supports providing consumers with access to affordable, comprehensive health insurance options. However, short-term, limited-duration (STLD) health insurance does not provide comprehensive coverage that consumers need, such as coverage of essential health benefits.¹ Although STLD health

¹ A set of 10 categories of services health insurance plans must cover under the Affordable Care Act. These include doctors’ services, inpatient and outpatient hospital care, prescription drug coverage, pregnancy and childbirth, mental health services, and more. Some plans cover more services. <https://www.healthcare.gov/glossary/essential-health-benefits/>

plans may appear to provide an affordable option for health insurance coverage, these plans often leave consumers exposed to unexpected health care costs. STLD insurance can impose significant coverage limitations, including the exclusion of pre-existing conditions, mental and behavioral health services, and prescription drugs, which many consumers may not be aware of when purchasing a STLD health plan. It is only when consumers attempt to receive care will they realize the full impact of the limited coverage offered by STLD health plans.

These limitations can disproportionately impact underserved communities who may be more vulnerable to aggressive or misleading marketing practices and misinformation. Insufficient coverage for needed health care results in poorer health outcomes for patients and may lead to the use of high-cost services, such as emergency department visits or hospitalizations that could have been prevented if adequate care were available earlier. Plans with limited benefits and high patient cost sharing drive consumers' medical debt. Therefore, we applaud the Departments efforts to curb the use of STLD health plans while ensuring that consumers understand the limitations of the STLD health insurance plans and are informed of alternative options for comprehensive coverage through the Marketplace.

Moreover, it is not just patients who feel the impact of less comprehensive insurance coverage. Hospitals and their associated providers find themselves treating more patients who are uninsured or underinsured. This exacerbates the financial challenges health systems continue to face as they struggle to recover from the public health emergency and wrestle with supply chain and workforce shortages. These plans may force patients to forego needed, routine care because of limited benefits or high cost-sharing responsibilities. Consequently, these patients can be sicker when they finally seek care – many waiting until they need to go to an emergency room – and thus require an increased use of services that are likely to be more costly.

Finalize the Proposed Definitions of “Short-Term” and “Limited-Duration”

The proposed rule seeks to amend the definition of “short-term” and “limited-duration” as it relates to certain insurance products, namely, those that are excluded from the definition of “individual health insurance coverage.” (p. 44596). As the proposed rule notes, STLD insurance options were expanded in 2018.² The AAMC did not support the policies proposed in 2018 due to concerns that expanding access to STLD health insurance offerings would segment the insurance market, leading to de-stabilization and premium increases for sicker individuals and leaving patients with inferior health insurance coverage, potentially limiting their access to care.³ We remain concerned about inferior health insurance products and support the agencies' proposals to limit the use of the STLD health plans by proposing definitions for “short-term” and “limited-duration” as it relates to these plans.

The AAMC supports the proposal to define a “short-term” insurance plan as a plan with an expiration date that is “no more than 3 months after the original effective date of the policy, certificate, or contract of insurance.” (p. 44611). We agree that these limited coverage health insurance plans should not be used long-term. Shortening the time frame that these insurance products can be in effect, may alert consumers that these products do not provide comprehensive coverage and, therefore, may not be the appropriate insurance coverage for their needs. Further, we concur that limiting the coverage terms of STLD health insurance plans could help to lessen deceptive marketing practices and decrease consumers' confusion

² 83 FR 38212

³ <https://www.aamc.org/media/13461/download>

when offered an STLD product. It may, instead, propel consumers to seek more comprehensive health insurance offerings in the Marketplace where they may be eligible for premium assistance and cost-sharing subsidies. We urge CMS to finalize this proposal.

Currently, STLD health insurance policies can be renewed up to a total of 36 months under the same insurance product. The Departments are proposing to clarify their interpretation that “limited-duration” precludes renewals and extensions of STLD policies up to a total of 36 months. The proposed definition for “limited-duration” would be a “maximum coverage period no longer than 4 months in total, taking into account any renewals or extensions.” (p. 44611). In other words, a STLD health insurance plan with a contract term of 3 months could be extended for one additional month. We also support this proposal and ask CMS to finalize it.

Increase Transparency of STLD Coverage Limitations and Notice Requirements

The proposed rule outlines the Departments’ concerns that some consumers may lack full understanding of STLD plans and the limited benefits they offer. Notably, the proposed rule seeks to crack down on marketing practices that do not provide adequate disclosure of the coverage limits of the STLD plans. For example, the rule notes some deceptive marketing practices, including the use of logos of well-known issuers that are not affiliated with the marketed STLD insurance plans or suggesting the STLD policies provide comprehensive coverage when they do not. (p. 44613). The Departments also propose to amend the notice consumers receive that explains the limitations of STLD health plans. Specifically, the notice would be required to “clarify the differences between STLD insurance and comprehensive coverage, and identify options for consumers to obtain coverage in understandable language that would be meaningful to them.” (p. 44614). The AAMC supports these proposals. Further, the Departments should consider requiring that agents / brokers and consumers sign an attestation that the information given to the consumer by the agent / broker clearly spells out, in clear language, the terms of the coverage under the STLD and acknowledges that the consumer understands the limitations. This would work to ensure that underserved communities and patients with chronic medical conditions who may struggle to find affordable health insurance options are not targeted by unscrupulous sales and marketing tactics. A copy of this attestation should be given to the consumer and considered part of the insurance policy.

The AAMC supports proposals outlined in the proposed rule that would amend the notice to consumers to inform them that the STLD insurance is temporary and not comprehensive health insurance. In addition, we feel supplying consumers with the contact information for a state department of insurance would be useful and support including it in the notice. (p. 44615). The proposed changes would apply to notices for all STLD insurance policies sold or issued on or after the effective date of the final rules, and would also apply to existing policies upon renewal or extension of existing STLD insurance coverage on or after the effective date of the final rule. (pp. 44615 – 44619). We support this proposal and ask CMS to finalize it.

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CONCLUSION

Thank you for the opportunity to comment on this proposed rule. We would be happy to work with CMS 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 my colleague, Mary Mullaney at mmullaney@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 Officer

cc: David Skorton, M.D., AAMC President and Chief Executive Officer