



April 23, 2018

Centers for Medicare & Medicaid Services

Subject: CMS Proposed Rule CMS 9924 -P Short Term, Limited Duration Health Insurance Plans

To Whom it May Concern:

The National Organization of State Offices of Rural Health (NOSORH) is the membership association of the fifty State Offices of Rural Health. Our mission is to work with the fifty State Offices of Rural Health to improve health in rural America. State Offices of Rural Health are anchors of information and neutral observers and conveners for rural health. They support collaboration, information dissemination and technical assistance to rural communities and health care providers across the nation including critical access hospitals, certified rural health clinics, oral health and other providers.

NOSORH submits these comments to ensure that ongoing efforts to insure Americans include access to care, equitable benefits, improved health and cost savings throughout rural America. Thank you for the opportunity to comment. If we can provide additional information on the impact of proposed regulations for rural and underserved communities and the providers who serve them please feel free to email teryle@nosorh.org or call for assistance.

Sincerely,

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Executive Director
National Organization of State Offices of Rural Health

NOSORH Comments on CMS Proposed Rule - CMS-9924-P Related to Short-Term, Limited-Duration Health Insurance Plans

Introduction

The Centers for Medicare and Medicaid Services (CMS) issued a proposed rule, CMS-9924-P, which seeks to amend the definition of short-term, limited-duration insurance. This action is being taken to lengthen the maximum period of short-term, limited-duration insurance in an effort to provide more affordable consumer choice for health coverage. In this communication the National Organization of State Offices of Rural Health (NOSORH) makes specific comment and recommendation related to the proposed rule and how it should be modified to reflect the specific needs of rural residents.

Overview

NOSORH recognizes that the market environment for calendar year 2018 is very different than the anticipated environment for 2019. The elimination of the individual mandate will change the nature of the consumer decision-making process for some Americans. It may also change the role that Short-Term Limited-Duration (STLD) plans play in the market. Currently, STLD plans provide temporary bridge coverage for those individuals and families who do not have coverage of a Qualified Health Plan (QHP). While qualifying life events would permit individuals and families to enroll in a QHP outside of the annual open enrollment period, sometimes coverage is lost for other reasons. In these cases, STLD plans can provide a modicum of health care coverage until an individual or family can secure an employer offered or direct purchased QHP.

In 2019 the role of STLD plans could change. If the current proposed rules are implemented, allowing up to twelve months of coverage, STLD plans could be seen by consumers as an alternative to Affordable Care Act (ACA)-compliant plans. The elimination of ACA's individual mandate and its penalty will make purchase of a non-compliant plan more likely.

Non-compliant plans will be of particular interest to healthier individuals and families with higher incomes who are not eligible for QHP premium assistance. These consumers may be price sensitive in their consideration of plans, giving less consideration to the benefits offered. STLD plans are offered in a different part of the market than QHPs, and there is no straightforward way for consumers to easily compare the benefits offered.

NOSORH believes that there is room in the marketplace for lower-cost, limited benefit health plans. NOSORH understands that in the absence of an individual mandate some consumers may choose to forego health coverage and that lower cost plans may lead some of these consumers to maintain some level of coverage. However, the extension of STLD plan term to twelve months is not the appropriate approach for development of lower-cost limited benefit plans. Such an extension of largely unregulated plans could have a significantly negative impact on rural communities.

STLD Plans and Lower Cost Coverage

NOSORH believes that STLD plans have a legitimate role in the direct purchase health insurance marketplace and that changes can be made that will permit STLD plans to play this role more effectively. At the present time STLD plans have a three-month maximum term. They are designed as a limited benefit temporary coverage for individuals transitioning from one ACA compliant plan to another.

There are several ways in which an individual might lose coverage and not qualify for special enrollment between open enrollment periods. A short-term limited-benefit indemnity plan would provide some level of protection for this individual. However, it may take an individual more than 3 months to secure additional coverage. Extending the permissible term of STLD plans to 6 months would be a reasonable modification of the current rules.

NOSORH believes that STLD plans are imperfect coverage for most individuals. Extending the term of such plans to 12 months and permitting automatic renewability of the plans would promote STLD plans as an alternative to ACA compliant plans. The lack of key benefits in STLD plans, such as pregnancy coverage, makes them less than appropriate for many people. To develop lower cost, narrower benefit plans, there should be a modification of ACA requirements, such as the proposed creation of a new Copper level of plan coverage. NOSORH recommends that STLD plans be restricted to their original purpose with a maximum term no greater than 6 months.

NOSORH Recommendations for STLD Plans with Longer Terms

If the proposed rules extending the term of STLD plans to twelve months are enacted, a minimum Federal set of requirements should be established. This will assure minimum level of benefits in 2019 and subsequent years. These requirements can be less than the requirements of QHPs, but should assure a minimum range of benefits for the health insurance to be meaningful for a consumer. NOSORH further believes that there should be Federal requirements for STLD plans that assure that they will be offered equally in both rural and urban areas. Without these guarantees, rural residents may not be permitted the same market choices as urban residents.

NOSORH's specific recommendations for longer term SLTD plans are presented below.

- **Service Area for STLD Offering**

The proposed rules contain no provision related to the service area of any STLD health plan. This means that these plans could be offered to limited service areas. This would permit cherry-picking of communities by insurers, limiting the availability of STLD plans to those areas with higher concentrations of healthier enrollees and lowest cost of service delivery. Without clear direction on the service area to be covered by STLD plans, offerings could be limited to urban communities with rural communities excluded. If SLTD plans are to be offered as an alternative to ACA-compliant plans, NOSORH recommends that insurers be required to offer STLD plans statewide, to ensure equal opportunity for rural consumers.

- **STLD Plan Premium Differentials**

Assuring a statewide offering of STLD plans is only part of what is needed to assure that these plans are available to rural residents. Experience on the ACA marketplace has shown that some health plans have premium structures that negatively impact rural residents. In some cases, the premium charged for an ACA-compliant plan in a rural county can be twice that for the same plan in an urban county.

NOSORH believes that premiums charged for STLD plan offerings should be based upon statewide markets. If SLTD plans are to be offered as an alternative to ACA compliant plans, NOSORH recommends that any STLD plan be required to have identical premiums in both rural and urban areas.

- **Pre-Existing Conditions**

Under the current provisions for ACA-compliant plans, individuals with pre-existing conditions have protections for equal treatment by health plans. If STLD plans are permitted to discriminate against individuals with pre-existing conditions, it is possible that offerors will limit these plans to healthier enrollees. This is a type of cherry-picking which would remand other individuals to ACA-compliant plans and leave them with limited health insurance choices.

NOSORH believes that lower-cost limited benefit plans should compete on an even basis with other health plans. If SLTD plans are to be offered as an alternative to ACA compliant plans, NOSORH recommends that they be required to comply with the same requirements related to enrollee pre-existing conditions as do ACA-compliant plans.

- **Guaranteed Preventive Services and Pre-Deductible Benefits**

Under the proposed rules, it is likely that STLD plans will include high deductibles and limited preventive services. This is indicated in the discussion section of the proposed rules:

“Short-term, limited-duration insurance policies would be unlikely to include all the elements of PPACA compliant plans, such as the preexisting condition exclusion prohibition, coverage of essential health benefits without annual or lifetime dollar limits, preventive care, maternity and prescription drug coverage, rating restrictions, and guaranteed renewability.”

Therefore, consumers who switch to such policies from PPACA compliant plans would experience loss of access to some services and providers and increase in out-of-pocket expenditures related to such excluded services, benefits that in many cases consumers do not believe are worth their cost. This could be one reason why many consumers, even those receiving subsidies for PPACA compliant plans, may switch to short term, limited-duration policies rather than remain in PPACA-compliant plans. There will be a significant negative impact from this on both health system costs and overall population health of a shift from ACA plans to STLD plans. The entire cost of primary care visits, generic prescriptions, specialist visits and inpatient days will likely be the financial responsibility of the enrollee until some high deductible level is reached. There will be no incentive for enrollees to seek basic primary care or management of their chronic conditions. The financial barriers created by this limited

coverage will lead enrollees to postpone seeking needed care until higher acuity, more costly interventions are needed. The result will be higher costs and poorer health. If SLTD plans are to be offered as an alternative to ACA compliant plans, NOSORH recommends that the current ACA requirements for preventive services should be extended to cover STLD plans. This will assure that easily preventable health system costs are minimized. In addition, NOSORH recommends that a minimum set of pre-deductible basic health services be required for STLD plans. This could include a fixed number of primary care visits, basic pharmacy coverage and specialist visits. Such a requirement would assure that enrollees with chronic conditions would have an incentive to manage those conditions, reducing the long-term costs of the health system.

- **Network Adequacy**

ACA-compliant health plans are required to assure reasonable access to health care providers. No such stipulations apply to STLD plans. Most STLD plans are indemnity plans with little or no limitation on provider network. Nevertheless, it is possible to envision situations where a STLD plan might exclude a provider, particularly in a rural area. If SLTD plans are to be offered as an alternative to ACA-compliant plans, NOSORH recommends that the general network adequacy language of the ACA be applied to STLD plans to make this expectation explicit.

- **Deductible Levels and Lifetime Maximums**

Higher policy deductible levels, with or without guaranteed pre-deductible benefits, are a financial disincentive to appropriate use of health services. While higher deductible levels are to be expected for these limited coverage plans, NOSORH believes that reasonable limits should be set in Federal policy. NOSORH recommends that the limits on maximum deductibles currently used for Bronze plans be extended to STLD plans. Lifetime limits on coverage are currently excluded under ACA guarantees. This has been an important factor in reducing the potential for healthcare-related bankruptcies among covered individuals. No such limitation applies to STLD plans. While it is unlikely that individuals covered by STLD plans will run into lifetime limits, NOSORH believes that it is important for STLD plans to operate under the same exclusion for lifetime maximums as do ACA marketplace plans. This will reduce the possibility of medical bankruptcy for STLD plan enrollees.

- **Limited Benefit Coverage**

This topic is a major issue in the development of any new class of lower-cost limited-benefit plans. Under the proposed rules, STLD plans do not have a specific set of required benefits. There also is no requirement that they cover a minimum percent of health expenses. They stand in contrast to ACA-compliant plans which have a fixed set of 10 essential benefits and a defined percentage of expenses to be covered. NOSORH believes that if the policy aim for 2019 and subsequent years is to create lower-cost reduced-benefit plans and allow for greater consumer choice, the expansion

of STLD plans is a poor approach. Instead, NOSORH recommends that a new category of ACA-compliant health plan be established.

Bronze plans, the lowest cost ACA-compliant plan alternatives, have premiums pegged to 60% of expenses eligible under the plans. Congress has discussed the need for 'Copper' level plans, pegged to 50% of eligible expenses. A Copper level ACA-compliant plan would offer lower-cost, limited coverage and would provide an additional option for consumers. Copper level plans would also maintain important consumer protections and be eligible for premium tax credits.

NOSORH recommends that the mechanism of a Copper plan be established. This would be preferable to expanding STLD plans. This would achieve the goal of providing consumers lower cost alternatives.

If SLTD plans are to be offered as an alternative to ACA compliant plans, NOSORH believes that there should be clear federal guidance on how far essential health benefits, as defined in the ACA, can be limited in STLD plans. NOSORH recommends that a new minimum benefit definition be created based upon appropriate study. Further, NOSORH recommends that this proposed definition be published for appropriate comment by interested parties.