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March 7, 2017

The Honorable Tom Price, MD
Secretary of Health and Human Services
200 Independence Avenue, SW
Washington DC, 20201

Re: CMS-9929-P

Dear Secretary Price:

The American Lung Association appreciates the opportunity to comment on the proposed rule, *Patient Protection and Affordable Care Act; Market Stabilization* (RIN 0938-AT14).

The Lung Association recognizes that a stable marketplace is essential for people with lung disease to have quality and affordable healthcare coverage. However, while this rule gives more flexibility to the insurance companies participating in the marketplace, there is concern that these stabilization provisions may also have the consequence of creating additional barriers to healthcare. Any market stabilization reforms should aim to create a more robust marketplace, increasing quality and affordable healthcare.

Shortened Comment Period:

The Lung Association understands the time constraints on any new regulations to be effective for plan year 2018. However, a twenty-one day comment period is not sufficient to solicit meaningful comments. A rule of this significance should be subject to a full comment period of at least 30 days for stakeholders, including the healthcare industry, state regulators, consumers and other interested parties to order to adequately respond to the request for comment. The Lung Association urges the Department of Health and Human Services (HHS) to allow for at the minimum a 30-day comment period moving forward.

Shortened Open Enrollment:

The Lung Association is concerned about the proposal to shorten the open enrollment to six weeks for plan year 2018. Consumers are just becoming familiar with the open enrollment period lasting from November 1 – January 31. Consistency for the enrollment period will ensure high enrollment. We urge HHS to maintain the twelve-week enrollment period.

Advocacy Office:

1331 Pennsylvania Avenue NW, Suite 1425 North
Washington, DC 20004-1710
Ph: 202-785-3355 F: 202-452-1805

Corporate Office:

55 West Wacker Drive, Suite 1150 | Chicago, IL 60601
Ph: 312-801-7630 F: 202-452-1805 info@Lung.org

If HHS does move forward with this proposal, a strong and vigorous public outreach campaign must accompany the change. Without the public outreach campaign, the proposed change could reduce enrollment in marketplace plans.

Changes for Special Enrollment Periods (SEPs):

The Lung Association is concerned about the proposed changes for SEPs. Enrollment, including enrollment during an SEP should be as straight-forward as possible to encourage people to sign up, including young, healthy individuals. Unfortunately, the proposed rule creates barriers to access quality and affordable care.

The pre-verification process for everyone enrolling in a SEP is both onerous and arbitrary due to the lack of evidence of fraud and abuse within the system. Additionally, HHS has proposed ending the pre-verification pilot program that would show how burdensome the pre-verification process was for both HHS and enrollees, allowing appropriate steps to be taken to balance the need of pre-verification and build capacity for the extra work. The Lung Association urges HHS to keep the pre-verification pilot program, reserving the authority to impose the pre-verification program on all SEP enrollees until there are results from the pilot program.

The Lung Association is also concerned the pre-verification process will delay care. The proposal does not include a required deadline for HHS to verify eligibility. Recognizing the administrative burden the pre-verification process will impose on HHS, there is a need for more transparency from the agency regarding when a verification decision will be made, so patients do not have their applications pending indefinitely. This especially important to lung disease patients who need continuous treatment to manage their diseases, such as lung cancer, asthma and COPD.

The Lung Association is very concerned with the proposed changes for individuals who qualify for an SEP through a triggering life event. HHS proposes these new dependents can only be added to the current enrollee's plan rather than having the option to choose a new plan. These enrollees are spouses and children, who may have different health needs than the enrollee who originally chose a specific plan. For patients with lung disease who are reliant on medications and treatments to breathe, these proposed changes are incredibly precarious. This proposed change differs from the standard in the employer-sponsored marketplace, where when new dependents are added, a family has the option to change their health plan. Diverging from this prevailing standard creates unnecessary confusion and imposes barriers to care.



Changing the Actuarial Value of Metal Levels:

The proposed rule would expand the actuarial value of plans allowed in the various metal levels. If adopted, this proposal will increase the variation in the generosity of plan benefits offered with a metal level, making more difficult for consumers to identify the plan level they need.

In addition to adding more confusion to the marketplace, the proposed rule could also impact the Advance Premium Tax Credit (APTC) for lower income individuals and families. The APTC is based on the premium of the second lowest cost silver plan. Allowing more variation for the actuarial value for silver plans, could result in silver plans with lower premiums due to the less generous coverage offered by the plan. Patients with pre-existing conditions, such as lung disease, who often need a more generous plan, could face a lower APTC and higher out of pocket costs.

While this change would directly impact lung disease patients on the exchange, hampering their access to quality and affordable care, it also could destabilize the marketplace. A lower APTC or higher premiums could discourage healthier individuals from signing up for insurance coverage in the first place. The Lung Association encourage HHS to not adopt changing the actuarial value of plans allowed in the various metal levels.

Continuous Coverage Requirements:

The Lung Association is discouraged to see HHS exploring policies promoting continuous coverage by imposing a waiting period for enrollment or assessing a late enrollment penalty. Both policies would create an excessive burden for individuals with pre-existing conditions, including those with lung disease.

Imposing a 90-day waiting period for individuals who are unable to prove continuous coverage will disrupt the marketplace. The proposed waiting period will delay needed care, creating the need for more expensive care once the waiting period has ended. The Affordable Care Act (ACA) has allowed people with pre-existing conditions to buy insurance that offers robust benefits in a timely manner.

Assessing a late enrollment penalty would create a financial hardship for families that may have lacked coverage because of unemployment or other hardship. The Lung Association strongly implores HHS to reject both of these policy proposals.

The Lung Association believes that the ACA guarantees issue of health insurance, regardless of previous health status or health insurance status; and that no price variations can be made based on either of these conditions. Without that standard, patients lack access to quality and affordable healthcare.



The Lung Association appreciates the opportunity to comment on the proposed Market Stabilization rule and encourages HHS to look at the implications to patients of the new market stabilization rules. Consumer transparency and patient protections are key to a stable marketplace and must not be forgotten in any effort to stabilize the marketplace. The Lung Association strongly urges HHS to ensure patients have access to quality and affordable care through the marketplace.

Sincerely,

A handwritten signature in black ink that reads "Harold Wimmer". The signature is written in a cursive style with a large initial 'H'.

Harold P. Wimmer
National President and CEO
American Lung Association

