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October 5, 2016

The Honorable Sylvia Matthews Burwell
Secretary of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: CMS -9934-P

Dear Secretary Burwell:

The American Lung Association appreciates the opportunity to submit comments on the *Patient Protection and Affordable Care Act*; *HHS Notice of Benefit and Payment Parameters for 2018* proposed rule.

The Lung Association supports the Centers for Medicare and Medicaid Services’ (CMS) efforts to stabilize the health insurance market. A stable market, including plans both in and out of the marketplaces, is paramount in securing access to affordable, quality healthcare for all Americans. However, stabilizing the health insurance market is only the first step in increasing access to healthcare and thus improving health outcomes.

In addition to the proposed rule changes to stabilize the marketplace, CMS must ensure health insurance plans provide patients access to robust, high quality healthcare. The proposed rule gives insurance companies more flexibility but does not contain any new patient protection safeguards to ensure the increased flexibility does not come at the cost of quality care to patients. Patient protections, including non-discrimination protections must be enforced for all plans in the exchanges. For example, a 2016 analysis conducted by Avalere¹ found that despite guidance from CMS, plans are continuing to place all drugs to treat a condition on the highest cost tier. This creates a situation where benefits are financially out of reach for some patients.

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The American Lung Association also has concerns regarding enforcement of preventive services. Additional analyses have shown preventive services given an “A” or “B” from the United States Preventive Services Taskforce (USPSTF) are either still not being covered, or are being covered but with cost-sharing². This is inconsistent with the Affordable Care Act (ACA). Preventive services save lives and prevent costly interventions in the future, which is why this is a foundational tenet of the ACA. Greater enforcement of the preventive services provision of the ACA will ensure access to services such as lung cancer screenings for individuals at high risk and tobacco cessation, preventing future tobacco caused disease and catching cancer at an earlier stage to give patients a better chance of survival.

The proposed rule lacks transparency surrounding the full extent of covered benefits and services along with associated barriers to access, including cost-sharing. Prospective and current health plan enrollees have a right to make more informed decisions about their health plans and to efficiently navigate their health care benefits. Ensuring that all preventive services are covered with no cost-sharing is critical to realizing the opportunity of the Affordable Care Act. However, CMS should require that plans clearly identify all preventive services that are provided without cost-sharing and are not subject to the deductible. This information should be available in front of any firewalls, prior to the purchase of the plan. Stronger transparency of covered benefits and services will facilitate improved communication between patients, payers and providers to ensure efficient access to and coordination of health care services. This will allow patients to better manage their health condition and improve health outcomes.

Standard Plans

The standard plan design outlined in the proposed rule has the potential to protect patients from high cost-sharing plan designs, specifically around prescription drug coverage. Unlike hospital stays or doctor’s visits, prescription drugs are paid for up front. If the co-pay or co-insurance is too expensive for patients, they will not purchase necessary medications. The American Lung Association urges HHS to ensure that a standard plan is available with lower-cost sharing to ensure patients adhere to their treatments. The proposed rule keeps cost-sharing as high as 50 percent in the third tier and specialty prescription drug formulary tier in bronze plans. This cost is unsustainable for moderate and lower income consumers even with the cost sharing subsidies.

The Lung Association also urges HHS to ensure that standard plans clearly outline coverage for preventive services, including lung cancer screening. The proposed plan designs have a four-tier formulary: generic/Tier 1, Tier 2, Tier 3 and a specialty tier. Plans are allowed to include additional tiers below the generic tier. The Lung Association supports the idea for standard plans to use a five-tier formulary, adding a tier below the



generic tier as a no-cost preventive services drug category. This tier would list all the USPSTF preventive services that have a drug component, but does not have to be limited to those medications.

Bronze Plan *de minimis* deviation

The proposal to give bronze plans the additional flexibility for *de minimis* deviations could increase access to care. Allowing bronze plans an increase in the actuarial value, provided they cover one major service before the deductible will increase access to care for consumers who choose bronze plans. Bronze plans have the lowest premiums, making them most affordable for individuals with moderate incomes. Increasing the actuarial value and providing some benefits before the deductible is met allows individuals and families with these plans to get coverage on day one. The Lung Association strongly encourages HHS to include prescription drugs among the qualifying services to be offered before the deductible. Access to prescription drugs allows patients to manage chronic diseases such as asthma and COPD, preventing costly complications and emergency department visits. It will also help ensure that individuals with lung cancer who receive non-infused therapies can also afford them.

Any bronze plan that takes advantage of the *de minimis* deviation should clearly be identified to consumers as a plan that provides additional benefits before the deductible is met. If premiums are slightly higher for these plans they will be towards the bottom of the results page on Healthcare.gov. If there is no indication they provide a more generous benefit than other bronze plans, individuals and families may not be aware of the plans to take advantage of them. The Lung Association asks that additional benefits offered should be clearly labeled for consumers to see.

The Lung Association recognizes the importance of and supports stabilizing the health insurance market. However, while attempting to stabilize the market, CMS must not lose sight of the patient. Any additional flexibility for insurance companies must also include sufficient patient safeguards to ensure that patients can still access quality and affordable healthcare in the marketplaces. The Lung Association appreciates the opportunity to comment and urges HHS to put patient access to quality healthcare at the forefront of its efforts.

Sincerely,



Harold P. Wimmer
National President and CEO



¹ Avalere Health, “2016 Exchange Plans Improve Access to Medicines Used to Treat Complex Diseases,” April 19, 2016. (http://go.avalere.com/acton/attachment/12909/f-02cb/1/-/-/-/-/20160419_Exchange%20Formulary%20Tiering%20graphics-v2.pptx)

² National Women’s Law Center, “State of Women’s Coverage: Health plan violations of the Affordable Care Act,” April 28, 2015. (<https://nwlc.org/wp-content/uploads/2015/04/stateofwomenscoverage2015final.pdf>); National Women’s Law Center, “State of Birth Control Coverage: Health plan violations of the Affordable Care Act,” April 28, 2015. (<https://nwlc.org/wp-content/uploads/2015/04/State-of-Birth-Control-Coverage-Health-Plan-Violations-of-the-ACA.pdf>); National Women’s Law Center, “State of Breast Feeding Coverage: Health plan violations of the Affordable Care Act,” April 28, 2015. (<https://nwlc.org/wp-content/uploads/2015/04/State-of-Breastfeeding-Coverage-Health-Plan-Violations-of-the-Affordable-Care-Act.pdf>); American Lung Association, “State Health Insurance Marketplace Plans: New Opportunities to Help Smokers Quit August 2015 Update,” August 2015. (<http://www.lung.org/assets/documents/tobacco/state-health-insurance-opportunities.pdf>)

