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April 23, 2018

Seema Verma, MPH
Administrator
Centers for Medicare & Medicaid Services (CMS)
Department of Health and Human Services
7500 Security Boulevard
CMS-9924-P
Baltimore, Maryland 21244-1850

Submitted electronically via www.regulations.gov

RE: Short-Term, Limited-Duration Insurance Proposed Rule (CMS-9924-P)

Dear Administrator Verma:

On behalf of the Emergency Nurses Association (ENA) and our more than 43,000 members, we appreciate the opportunity to comment on the Centers for Medicare and Medicaid Services (CMS) proposed rule on short-term, limited-duration health insurance plans. Founded in 1970, ENA is the leading authority on patient safety, industry practice standards and emergency health care policy. Our expertise derives from our commitment to providing the highest level of safe, quality care to every patient who presents in hospital emergency departments.

The proposed rule seeks to expand the use of short-term, limited-duration health plans by extending the maximum duration of such plans from three to twelve months. Further, the rule would revise the required notice for contracts and any application materials for these plans.

Short-term, limited-duration insurance plans do not need to meet the Affordable Care Act (ACA) individual market requirements because they are excluded from the statutory definition of “individual health insurance coverage.” As a result, these plans are not required to provide the same package of essential health benefits (EHBs) as ACA-compliant health insurance plans. EHBs ensure that all individual and small group insurance plans cover important services and treatment. Under the ACA, essential health benefits fall into ten categories, including emergency services and mental health coverage.

Needless to say, by increasing the use of plans that do not include EHBs, emergency departments will experience a significant growth in the number of patients lacking adequate health insurance coverage. In a recently issued study,¹ the Urban Institute found that expanding short-term, limited-duration policies as proposed in this rule would increase the number of people without

¹Blumberg, Linda J., and Matthew Buettgens and Robin Wang. *Updated: The Potential Impact of Short-Term Limited-Duration Policies on Insurance Coverage, Premiums, and Federal Spending*. The Urban Institute: March 2018. Web: https://www.urban.org/sites/default/files/publication/96781/2001727_updated_finalized.pdf (accessed April 19, 2018).

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minimum essential coverage by 2.6 million in 2019 alone. This is in addition to the 32.6 million individuals who are completely uninsured.

The impact on emergency departments will be devastating. Under the Emergency Medical Treatment and Labor Act (EMTALA), anyone arriving at an emergency department has access to care, regardless of coverage status or ability to pay. Therefore, if health insurance plans do not cover treatments received in emergency departments, it will lead to even higher levels of uncompensated care, further straining hospital emergency services.

Even if some of these short-term, limited-duration insurance plans were to maintain coverage for emergency services, a reduction in other EHBs will lead to increased reliance on the emergency department for receipt of care. For example, underinsured patients are more likely to delay primary care treatment. This can exacerbate existing acute and chronic conditions, increasing the likelihood of needing emergency care.

In addition, patients who lack adequate health insurance are more likely to seek primary care services in the emergency department, placing disproportionate strain on hospitals. Extensive surveys by the Commonwealth Fund found that 52 percent of underinsured individuals, such as those who utilize short-term, limited-duration plans, have problems paying their health care bills and 45 percent of underinsured individuals go without needed care because of cost.²

ENA is especially concerned these plans will limit coverage for mental health patients. This will inevitably result in additional uninsured and underinsured behavioral health patients utilizing their local emergency department for care, which is not the appropriate setting for comprehensive behavioral health treatment.

It will also lead to the increased boarding of mental health patients in emergency departments. Research conducted by ENA in 2015 found that mental health patients who present to an emergency department have an average stay of 18 hours, compared to an average of only four hours for all emergency department patients. The extended boarding of mental health patients is a direct result of the shortage of community-based mental health services, which in turn is caused by the high number of mental health patients lacking adequate insurance. This problem will only deteriorate if the use of short-term, limited-duration plans becomes more prevalent.

² Collins, Sara R., Gunja, Munira Z., and Doty, Michelle M. *How Well Does Insurance Coverage Protect Consumers from Health Care Costs? Findings from the Commonwealth Fund Biennial Health Insurance Survey, 2016*. The Commonwealth Fund: October 2017. Web: http://www.commonwealthfund.org/~media/files/publications/issue-brief/2017/oct/collins_underinsured_biennial_ib.pdf (accessed April 19, 2018).

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For the reasons set forth in this comment letter, ENA urges the withdrawal of the proposed rule. Instead, we support other policies to expand access to full insurance coverage and reduce costs. As we collectively pursue those options, we encourage you to review a letter sent to members of Congress last year outlining ENA's health care policy principles.³

We appreciate the opportunity to provide comments on this proposed rule and look forward to working with you to improve our health care system, especially with respect to the care received by millions of Americans requiring care in our nation's emergency departments.

Sincerely,

A handwritten signature in black ink that reads "Jeff Solheim". The signature is written in a cursive, flowing style.

Jeff Solheim, MSN, RN, CEN, TCRN, CFRN, FAEN, FAAN
2018 ENA President

³ <https://www.ena.org/press-room/articles/detail/2017/01/10/ena-communicates-health-care-policy-principles-to-congressional-leadership>