

August 22, 2023

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
Hubert H. Humphrey Building, Room 509F
200 Independence Avenue SW
Washington, DC 20201

Submitted electronically to www.regulations.gov

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

Dear Secretary Becerra:

The American Nurses Association (ANA) is pleased to comment on the Centers for Medicare & Medicaid Services (CMS), along with the Department of the Treasury and the Department of Labor (the agencies), proposed rule that would amend federal definitions for the contract periods and coverage length of short-term, limited duration insurance (STLDI) plans. ANA supports the agencies' proposals that would better delineate STLDI from comprehensive coverage plans that are subject to protections outlined in the Affordable Care Act (ACA). ANA strongly believes that everyone must have access to affordable, comprehensive health insurance and strongly urges the agencies to finalize the proposals in this rulemaking that would once again limit STLDI plans and require clearer notices for consumers.

This proposed rule seeks to revert 2018 rulemaking that aimed to expand the sale and use of STLDI plans by extending the maximum duration of such plans from three months to twelve months and modified the disclaimer required under current regulations for these types of health insurance plans.¹ ANA expressed great concern during the public comment period that the proposed rule, combined with the repeal of the individual mandate in December 2017, would result in more uninsured people and further limit access to affordable, comprehensive health insurance coverage.²

Since the 2018 rule was finalized, analysis and data about the expansion of STLDI plans have validated ANA's concerns. Claims data showed that these plans spent very little on patient care in comparison to more comprehensive coverage plans—with aggressive strategies to avoid spending more.³ In addition, reports have shown that marketing tactics to beneficiaries are often misleading, directing them to less

¹ Short-Term, Limited-Duration Insurance, 83 Fed. Reg. 38212 (August 3, 2018).

² American Nurses Association. Comment Letter to CMS on Short-Term, Limited Duration Insurance [CMS-9924-P; RIN 0938-AT48], April 23, 2018, <https://www.nursingworld.org/~49895e/globalassets/docs/ana/anacommentletter-shortterminsurance-04232018.pdf>.

³ The Commonwealth Fund. Blog: In the Age of COVID-19, Short-Term Plans Fall Short for Consumers. May 12, 2020. <https://www.commonwealthfund.org/blog/2020/age-covid-19-short-term-plans-fall-short-consumers>.

comprehensive plans that lack the consumer protections outlined in the ACA.⁴ Many states recognized the risks associated with these plans and instituted their own rules to restrict or limit the duration and availability of STLDI plans after the federal regulations were promulgated.⁵

ANA and the nurses we represent strongly believe that every American citizen and resident has the right to access affordable, comprehensive health care coverage. Short-term, limited duration health plans by definition are not required to meet the ACA requirements with respect to essential health benefits, pre-existing conditions protections, and lifetime coverage limits. These protections were included in the ACA so that it would not be more difficult for individuals with chronic and complex health conditions to purchase coverage. For these reasons, ANA supports the proposed rule that would once again restrict contract lengths and limit the duration back to three months for STLDI plans. We applaud the Administration for recognizing the need to make this change through this rulemaking process. Further, the rule also proposes to revise current notice requirements to provide consumers with clearer information about the types of health insurance plans available to them. The agencies are on firm policy grounds to make this change. **As such, ANA urges the agencies to finalize the above-captioned rule to better protect consumers and ensure everyone has access to affordable, comprehensive health care coverage.**

ANA is the premier organization representing the interests of the nation's over 5 million registered nurses (RNs), through its state and constituent member associations, organizational affiliates, and individual members. ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. ANA members also include the four APRN roles: nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives (CNMs), and certified registered nurse anesthetists (CRNAs). RNs serve in multiple direct care, care coordination, and administration leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care and provide advice and emotional support to patients and their family members.

ANA appreciates the opportunity to submit these comments and looks forward to continued engagement with HHS. Please contact Tim Nanof, Vice President, Policy and Government Affairs, at (301) 628-5166 or Tim.Nanof@ana.org, with any questions.

Sincerely,



Debbie Hatmaker, PhD, RN, FAAN
Chief Nursing Officer / EVP

cc: Jennifer Mensik Kennedy, PhD, RN, NEA-BC, FAAN, ANA President
Loressa Cole, DNP, MBA, RN, NEA-BC, FAAN, ANA Chief Executive Officer

⁴ Center on Budget and Policy Priorities. Commentary: Growing Evidence Shows Need for Stronger Rules for Short-Term Health Plans. October 23, 2020. <https://www.cbpp.org/research/health/commentary-growing-evidence-shows-need-for-stronger-rules-for-short-term-health>.

⁵ Ibid.