

March 2, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9916-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021; Notice Requirement for Non-Federal Governmental Plans. CMS-9916-P; RIN 0938-AT98

Dear Ms. Verma,

As organizations that share a strong commitment to the health of our nation's children, we appreciate the opportunity to provide comments in response to the proposed 2021 Notice of Benefit and Payment Parameters (Notice). Overall, approximately one-half of all children are covered by commercial plans with more than one million children enrolled in Qualified Health Plans (QHPs) to date. Commercial coverage, whether through an employer plan or a QHP, must ensure that covered children have access to timely, affordable, high-quality and age-appropriate care that meets their unique developmental needs and enables them to meet their full potential as adults. Access to health care for children and their families is vital to long-term health, well-being and productivity.

We respectfully submit the following comments on ways we believe the Notice can be strengthened to ensure that access to timely and appropriate treatment for children, particularly those with serious, chronic or complex conditions, is as seamless as possible. Our comments highlight:

- Our concerns about the impact of the proposed changes to the automatic re-enrollment process on low-income and vulnerable families.
- Our support for the proposed revisions to the special enrollment periods.
- Our ongoing belief that the flexibilities afforded to states and insurers related to the essential health benefits benchmark selection could leave children worse off and their families with higher out-of-pocket costs.

Automatic Re-enrollment Process (§155.335)

We are very concerned with the proposed elimination of auto re-enrollment for enrollees whose premiums are fully covered by premium tax credits (APTCs) and strongly recommend that the current re-enrollment policies be retained. Auto re-enrollment is the norm in the insurance industry and has been an effective tool in assuring that QHP enrollees retain coverage and reducing administrative costs and burdens, as noted in the rule's preamble.

Eliminating auto re-enrollment for individuals and families who qualify for a high APTC places an additional administrative burden on the lowest-income and most vulnerable enrollees who are already at risk of churning on and off of coverage. Furthermore, while we agree that outreach to individuals and families affected by the changes to re-enrollment would be critically important, we do not believe it will be effective in preventing unwarranted coverage loss as outreach on health insurance issues can be complicated by language barriers and low health insurance literacy. Rather than putting coverage and access to care at risk for families, we urge you to consider strengthening other strategies already in place to address potential eligibility errors.

Special Enrollment Periods (§155.420)

We support the proposed special enrollment period that would allow enrollees and their dependents to move to a higher or lower metal level plan if they became ineligible for cost-sharing reductions. In addition, we are pleased that the proposed Notice would create a new special enrollment period to allow individuals who previously were not enrolled to be added to their dependent's policy. We also appreciate the acceleration of effective dates so that consumers will not have to wait as long for coverage to become effective. We recommend that you finalize these changes for 2021 and future years.

Essential Health Benefits (§156.111)

We continue to be very concerned about the revisions to the essential health benefit (EHB) benchmark selection process, which were adopted in the final 2019 Notice. As we have articulated in prior comment letters¹, the flexibilities afforded to states and insurers related to benchmark selection could leave children, especially those with serious, chronic or complex conditions, worse off and their families with higher out-of-pocket costs. Without stronger parameters for states that design their own EHB package from scratch or choose all or parts of a benchmark from another state, it is very possible that a state could limit or drop certain key benefits in the interest of lowering premiums.

It is critical that essential pediatric benefits include all age-appropriate preventive, diagnostic and treatment services that are medically necessary for children, including those who have a chronic condition, functional impairment, or significant or multiple health risks. Those services must be specifically suited to children's unique and continuous development and growth needs and must include key therapies and devices that are now included in the habilitative services category of the EHBs. Receiving sufficient habilitative services that help a child *acquire*, improve, or retain a skill or level of functioning that they did not previously possess can mean the difference between talking and not talking, walking and not walking, or needing special education and being able to join a regular classroom.

We believe that the new benchmark development process could limit access to these vitally important services for children and expose families to financial hardship. We respectfully urge you to discontinue this policy and restore the prior EHB benchmark selection process.

In conclusion, the undersigned organizations appreciate this opportunity to share our views regarding the proposed Notice. We look forward to working with you to ensure that the unique health care needs of children and families are met in the individual and larger group markets. If we may provide further information or otherwise be of assistance, please contact Jan Kaplan at the Children's Hospital Association, at 202-753-5384 or jan.kaplan@childrenshospitals.org.

Sincerely,

American Academy of Pediatrics
Children's Defense Fund
Children's Hospital Association
Family Voices
First Focus on Children
Georgetown University Center for Children and Families
National Association of Pediatric Nurse Practitioners

¹ See [Nov. 27, 2017 letter re: CMS-9930-P](#) and [Feb. 19, 2019 letter re: CMS-926-P](#).