



March 30, 2020

The Honorable Alex Azar
 Secretary
 U.S. Department of Health and Human Services
 200 Independence Avenue, SW
 Washington, DC 20201

The Honorable Seema Verma
 Administrator
 U.S. Centers for Medicare and Medicaid Services
 7500 Security Boulevard
 Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma:

The 31 undersigned organizations, representing millions of patients and consumers across the country who face serious, acute, and chronic health conditions, urge the Administration to act decisively to slow the spread of the COVID-19 virus, particularly among vulnerable populations. People with pre-existing conditions are at increased risk of infection and adverse health outcomes from COVID-19. For this reason, it is essential that any action taken by the Administration to mitigate the impacts of this pandemic take into account the needs of our nation's most vulnerable populations, including patients with pre-existing conditions.

In order to adequately protect patients, our organizations urge the Administration to take swift action to remove barriers to COVID-19 testing and treatment, promote enrollment in high-quality insurance options, increase affordability for consumers in the short and long term, ensure continuity of care for Americans with serious health conditions, and waive rules that require in-person interactions that promote community spread of COVID-19. Together, we urge the Administration to take the following steps to ensure that patients and consumers have access to the coverage and services they need during this pandemic:

Special Enrollment Periods

Making sure that as many people as possible have access to high-quality coverage in the private market is key to ensuring individuals seek timely medical attention if they become symptomatic. Consumers who are concerned about cost because they are un- or under-insured may delay seeking treatment, potentially accelerating the spread of the virus. We therefore urge HHS to authorize a 60-day special enrollment period to give all consumers the opportunity to purchase comprehensive coverage that meets their healthcare needs.

HHS should also consider additional policies during the pandemic that will allow patients to seek care in a timely fashion. First, HHS should invest sufficient funds to advertise any emergency SEP, ensuring that as many people as possible are aware of the opportunity to enroll, in addition to communicating why coverage is critical during the COVID-19 pandemic. Additionally, the department should also waive any verification processes that would delay care and consider immediate effectuation dates so coverage can begin as soon as possible. This includes taking steps to simplify enrollment requirements by relaxing SEP documentation requirements for those who lose their job or have hours reduced. Reducing red tape will help ensure consumers are able to keep comprehensive coverage if they are unable to maintain employer coverage. Finally, the department should take steps to improve existing special enrollment periods. In particular, HealthCare.gov should implement the SEP authorized in last year's Notice of Benefit and Payment Parameters for insured individuals who, because of a reduction in income, become newly eligible for advance premium tax credits (APTCs). This existing SEP would provide an option for obtaining affordable coverage for the many people who are likely to experience a loss of income during this crisis.

Due to the increased availability of plans that are not required to meet federal patient protection standards – including short-term limited duration and association health plans – many Americans are signed up for insurance-like products that may not cover testing or treatment for COVID-19. These plans put those who enroll in them at substantial financial and physical risk, especially in emergency situations. HHS should prohibit the sale of short-term, limited-duration plans and other non-ACA-compliant plans during a special enrollment period. Allowing non-ACA plans to enroll more individuals at this time will only increase the number of individuals with coverage that renders them eligible for federally funded testing under the newly enacted National Disaster Medical System program for uninsured individuals.

Coverage for Testing, Treatment and Recovery

Patients, particularly those with pre-existing conditions, need to be able to access timely testing and treatment as federal, state, and local governments work to stop the spread of the coronavirus. All individual and group market insurance coverage should be required to cover all care related to the testing, treatment, and recovery from the COVID-19 virus. Our organizations strongly support coverage requirements for testing that were included in H.R. 2601 and H.R. 748 and urge HHS to ensure that all carriers comply with these requirements. We also urge the Administration to apply these same coverage standards to non-compliant plans like short-term, limited duration and association health plans.

Financial Protections for Consumers

Concerns about financial stress can be a significant barrier to care for patients. Recent media reports indicate that consumers diagnosed with COVID-19 may face extreme costs because of the nature of their treatment and quarantine.^{1,2} Fear of encountering high costs could keep consumers who have been exposed or infected with the COVID-19 virus from seeking the care they need – potentially perpetuating the spread of this deadly virus. We urge the Administration to use its authorities to help eliminate costs incurred by patients during this crisis. Additionally, we urge the utilization of grace periods for late premium payments so that consumers do not lose their coverage if they are unable to pay their bill on time.

Premium Assistance for Continuation of Coverage

The Administration should also use existing authorities and request Congressional authorization to implement policies that would allow individuals to extend employer sponsored coverage and provide subsidies to alleviate financial strain after termination. This approach, which was last utilized in 2009, allowed workers to receive a 65% premium subsidy for six months to retain coverage. As more individuals lose coverage as a result of job loss, it will continue to be critical to retain coverage to adequately combat COVID-19. Furthermore, keeping an employer plan will allow for continuity of provider networks and medications, which is critical for patients with pre-existing conditions. Patients with pre-existing conditions are also among the people likeliest to have incurred substantial out-of-pocket spending this early in the calendar year. Facilitating the extension of employer coverage relieves such individuals from having to start a new plan, with new cost-sharing amounts and patient out-of-pocket contributions reset to zero.

Insurers, including those with business streams outside of health coverage, are also experiencing financial strain as a result of the pandemic, and will likely adjust rates across all products to ensure they remain solvent in the coming months or even years. Preliminary analyses are already indicating that premium rates for 2021 may increase dramatically as a result of the COVID-19 pandemic. One report, prepared by Covered California, anticipates that projected costs related to testing and treatment in the commercial market may increase by as much as \$250 billion over the course of one year.³ This dramatic uptick in expenditures could increase premiums upwards of 20% in 2020 and as much as 40% in 2021.⁴

As these changes take place, employers and individuals may be unable to shoulder increased costs. This could lead to employers shifting even more costs onto their workers, individuals being priced out of the marketplace, and increasing numbers of people going uninsured. It is clear that the Administration needs to prepare for increasing market volatility in the coming years and move to protect patients and consumers appropriately. HHS should take immediate action to help consumers and employers navigate affordability challenges by increasing the generosity of advance premium tax credits and incentivizing employers not to shift costs on to employees.

¹ Luthra, Shefali and Amy Sherman. Trump Wrongly Said Health Insurers Will Pay for All Coronavirus Treatment. Kaiser Health News. March 13, 2020. Accessed at: <https://khn.org/news/trump-wrongly-said-health-insurers-will-pay-for-all-coronavirus-treatment/>

²Rae, Matthew et al. Potential Costs of Coronavirus Treatment for People with Employer Coverage. Kaiser Family Foundation. March 13, 2020. Accessed at: <https://www.healthsystemtracker.org/brief/potential-costs-of-coronavirus-treatment-for-people-with-employer-coverage/>

³ The Potential National Health Cost Impacts to Consumers, Employers and Insurers Due to the Coronavirus (COVID-19). Covered California. March 22, 2020. Accessed at: <https://www.law360.com/articles/1256170/attachments/0>

⁴ Id.

Supply of Essential Medications, Products, and Protective Equipment

Insurance plan restrictions on when a patient can obtain a prescription refill or purchase essential medical supplies can present barriers to care in circumstances in which drug and product supply chains may experience brief but meaningful disruptions. These restrictions on life-sustaining medications and products can require frequent trips to a physical pharmacy location, needlessly putting patients at risk of COVID-19 exposure while attempting to pick up their supplies. Restrictions on refill limits also prevent patients from complying with CDC recommendations to obtain an extra supply of prescription medications to prepare for COVID-19.

CMS has informed Part D plan sponsors that the plans may choose to relax these restrictions under certain circumstances during the COVID-19 pandemic and has encouraged individual and small group market issuers to allow for refills that can occur earlier than usual and for more than 90 days at a time. We urge the department to take additional steps or request congressional authority to require all payers to relax plan restrictions that prevent patients from following the recommendations of the CDC to secure an appropriate amount of backup supplies of essential medications and medical products. CMS should ensure that any new requirements carefully balance the ability for patients to access additional prescriptions and supplies with the potential for major stockpiling to avoid drug shortages. These policies should apply broadly to all plans.

The Administration should continue to leverage its authorities, including the Defense Production Act, to ensure patients and providers have access to personal protective equipment (PPE), medical supplies, and equipment during this crisis. It is critical that medical professionals have the ability to protect themselves and patients, particularly those with pre-existing conditions, from transmission in care settings where they may be treated. We strongly urge the Administration to move swiftly to use its existing authorities and funding provided in H.R. 748 to increase domestic production and acquisition of these critical products.

Medicaid

Medicaid currently provides coverage to more than 70 million Americans, and this public health crisis has increased the need for Medicaid to help patients access testing and treatment for COVID-19 and other serious, acute, and chronic health conditions.

Our organizations strongly support the Medicaid provisions in the Families First Coronavirus Response Act, including increasing states' FMAP by 6.2 percent, requiring states to cover COVID-19 testing in Medicaid and the Children's Health Insurance Program (CHIP) without cost-sharing, and allowing states to extend Medicaid coverage for testing to the uninsured. We urge the Administration to continue to work with Congress to provide additional Medicaid funding to states to address this public health crisis. We also appreciate the steps that the Administration has taken to provide states with additional information about applying for section 1115 demonstration waivers, section 1135 waivers and state plan amendments to provide important relief during this public health emergency and swift approvals of state waivers to address this crisis. We urge the Administration to work closely with states to help them take advantage of the provisions of the Families First Coronavirus Response Act as soon as possible.

Barriers to Medicaid Enrollment

Given the economic impact of the COVID-19 pandemic, programmatic efforts that would create barriers to gaining and maintaining Medicaid eligibility, such as waivers establishing work requirements or waiting retroactive eligibility, should be immediately halted. The Families First Coronavirus Response Act recognizes the importance of continuous Medicaid coverage during this time, and the maintenance of

effort requirements of the enhanced FMAP significantly limit the circumstances in which states can disenroll current or newly enrolled members during this public health emergency.

We also call on the Administration to immediately rescind the Healthy Adult Opportunity (block grant) policy guidance issued in January. Under this policy, states can change a significant portion of their Medicaid program to a block grant, which would have an aggregate or per person cap in the federal funding they receive. This public health crisis is likely to dramatically increase state Medicaid spending needs. As the gap between the block granted amount and actual costs of patient care increases over time, states will be forced to limit enrollment, reduce benefits, lower provider payments or increase cost-sharing, all of which would cause significant harm to the patients we represent.

Financial barriers to accessing Medicaid coverage, as well as to accessing specific treatments and services, must be halted as well. Research is clear that premiums and other cost-sharing lead to coverage losses and declines in the use of necessary healthcare services.⁵ Additionally, some states have used waivers to establish copays for the use of the emergency department (ED). Now more than ever, people need access to quick diagnosis and treatment in all settings, including the ED, and should not be financially penalized for seeking care during an emergency related to COVID-19 or any other critical health need.

Impact of the Medicaid Fiscal Accountability Rule

Many of our organizations submitted comments in January expressing concerns that the provisions in the Administration's proposed Medicaid Fiscal Accountability Rule will disrupt the ability of states to pay for their share of their Medicaid programs and severely weaken their capacity to effectively address the needs of patients with serious and chronic health conditions.⁶ Finalizing the rule now would cause additional harm by undermining many of the health and economic benefits of the increased FMAP funding for state Medicaid programs included in the Families First Coronavirus Response Act. We therefore urge the Administration to withdraw the Medicaid Fiscal Accountability Rule immediately.

Conclusion

The COVID-19 virus presents our country with an urgent economic and public health threat. Together, our organizations represent millions of people with pre-existing conditions who are amongst the most susceptible to this disease. We urge the Administration to take swift steps to limit the spread of the virus, increase access to high-quality, and affordable health coverage, and protect patients.

If you have questions regarding the content of this letter, please contact Katie Berge, Director of Federal Government Affairs at the Leukemia & Lymphoma Society at katie.berge@lls.org or Erika Sward, National Assistant Vice President for Advocacy at the American Lung Association at erika.sward@lung.org. Thank you for your consideration.

Sincerely,

⁵ Artiga, Samantha, Petry Ubri and Julia Zur. The Effects of Premiums and Cost Sharing on Low-Income Populations: Updated Review of Research Findings. Kaiser Family Foundation. June 1, 2017. Accessed at: <https://www.kff.org/medicaid/issue-brief/the-effects-of-premiums-and-cost-sharing-on-low-income-populations-updated-review-of-research-findings/>

⁶ Comments to CMS re: Medicaid Fiscal Accountability Rule, January 31, 2020. Available at: <https://www.lung.org/getmedia/d287def0-26e6-4921-916d-831329ff1ef2/medicaid-fiscal-accountability-rule-partners-letter.pdf>

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March of Dimes
Muscular Dystrophy Association
National Alliance on Mental Illness
National Coalition for Cancer Survivorship
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National Organization for Rare Disorders
National Patient Advocate Foundation
Pulmonary Hypertension Association
Susan G. Komen
The AIDS Institute
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Cc: The White House Task Force on COVID-19